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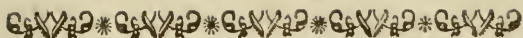
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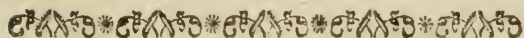


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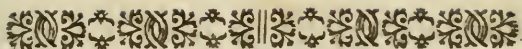
By EDWARD KING, Esq;

L O N D O N :

Printed for BENJAMIN WHITE, at Horace's
Head, in Fleet-street

MDCCLXXI.

AC911. 1971. K56



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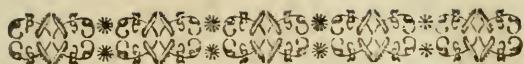
IT may perhaps be thought too bold an attempt, to venture into the world so trivial a performance, on a subject so important; but a truth may often be made apparent in a few words, as well as in a voluminous work; in which case the latter is less necessary. The Author does not, however, presume to think that what
 he

he has written, is so full and satisfactory, as to need no addition ; he only imagines, that he has gone far enough to bring somewhat to light that has hitherto been unnoticed, and he leaves it to others, of greater abilities, to treat the subject in a more copious and masterly manner.----The position advanced in these sheets, appears to him to be founded on a variety of undoubted facts, which he has endeavoured here to state fairly ; how far his conclusions are right, he submits
to

to the judgment of the reader, and wishes nothing more, than to have this little pamphlet read with the same candour with which it was written.----

Doctor Hurd, in his ingenious Dialogues, has shewn that every change made in our Constitution was in favour of Liberty, and the design of this Essay is to go one step further, and to shew how that came to be the case.----The Author has only this to add, that he is conscious there may be great defects in the stile, which he would have rendered more elegant

gant had he been able ; but it has always been his endeavour, rather to study the investigation of truth, than how to dress it in a pleasing form.



AN
ESSAY
ON THE
ENGLISH CONSTITUTION
AND
GOVERNMENT.

OF all the striking objects presented to our view in modern history, there is none more worthy attention, than the excellent constitution enjoyed in this kingdom. A Constitution, which has been admired and extolled, not only by those who partake of the benefits and advantages

vantages flowing from it, but also by writers of other countries, who one would expect should rather be prejudiced against it.

And yet, notwithstanding this excellence so generally and so justly allowed, many, in their defence of the English Constitution, have been unwilling to rest it on its own most admirable and solid foundation, namely, the fitness and utility of it; and considering this obvious argument as insufficient, have imagined themselves under a necessity of supporting it merely by precedents, and the authority of ancient custom. One would suppose they thought it was to be defended on no other principles, than those of its having been established in nearly the same form wherein it
 now

now exists, for ages immemorial. A fact which some have with great labour and difficulty endeavoured to render probable : but of which there is much reason to suspect the truth.

We may therefore venture to depart from their opinion : and perhaps shall not err, if we look upon the chief use arising from an enquiry into the nature of our ancient constitution to be, that it discovers what improvements have been made, and teaches us to value and esteem them.

We ought not, however, to reflect on times past ; as if a tolerable form of government never prevailed 'till these our days : nor to conclude that the present constitution is so totally different from what was here-

tofore established, as to be entirely void of any support from precedent and prescription. On the contrary, the ancient constitution during different periods seems to have been *such* as we may reasonably suppose was most fit and expedient for the nation at those times; and also *such*, that it is an easy matter to shew how the present form of government regularly, lawfully, and even necessarily, arose from it.

And the intent of this little essay is, to make it appear, that the excellence of any particular form of government, and especially of ours, is founded solely in the fitness of its mode and complexion to the manners, disposition, abilities, and general state of the people over whom it

it prevails ; and that of course, in order to have it constantly a good one, and well adapted at different periods of time *, it must have varied as those circumstances have changed ; and, therefore, that these (rather than any arguments drawn from prescription, and the example of what prevailed amongst our ancestors) are the principles on which it is to be defended. And further, from a review of the several forms of government in Europe, and of ours in particular, to make it appear, that a change and improvement, in the civil constitution of any nation,

* Thus with regard to the progress of jurisdiction, Dalrymple in his Essay on Feodal Property, observes, p. 277, *That it seems an invariable truth in the political world, that Society shall not remain long in the same state.*

necessarily, and in the nature of things, attends an improvement in the manners of the people, and an increase of science, commerce, and arts amongst them: and that the latter are almost always the causes and forerunners of any beneficial changes in favour of liberty. And upon this principle, I cannot but think, that the only proper enquiry concerning this or any other constitution is, whether an alteration would not render it unsuitable to those who are to be governed by it, considering their dispositions, manners, and state in general? and whether it may not be the best that *such* a people are *capable* of enjoying; tho' it may possibly be found to have many defects when viewed abstractedly, and when the only consideration

tion is, what mode of government is best among a people supposed to be well civilized.

The producing one instance will soon fully illustrate my meaning, and it shall be that of the Russians—No one surely will imagine, that *They*, in the time of the Czar Peter, could possibly have lived peaceably and happily under such a free constitution as ours is. Their savage manners, their unrestrained passions, and their ignorance of many social duties, would inevitably have led them to the abuse of it, by the commission of all kinds of disorders: and the slow, regular, and mild manner in which the laws are here administered, would have had no effect on their rough and untoward dispositions.

Before they can reap the benefit of such a constitution, they must be so far civilized and polished, as to be *capable* of being governed by it.

Perhaps we shall not err, if we not only suppose this fitness of any government to the manners and dispositions of the governed, to be the properest means of judging concerning it ; but even go so far as to conclude, that the various forms which have actually prevailed in different nations, and in the same nations at different times, have, for the most part, been so far from being bad and extravagant (as we are too apt at first sight to judge many of them to have been) that they were, on the contrary, almost all very fit and proper, considering the countries
and

and times wherein they prevailed; followed naturally from the state of things which then subsisted; and improved by degrees, as those amongst whom they took place became more civilized and wise, and fit for such improvements.

There seems to be an *inseparable* connection between moral and civil improvements; liberty always attends, in some degree, learning, industry, and commerce: whilst slavery, on the contrary, ever accompanies ignorance and indolence. And for the most part, the improvements of the mind, and the introduction of arts, lead the way to liberty; though they are in return foster'd, and often promoted by it. And it seems to me most probable, that it
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is to the particular state in which men are found, that the establishments of particular forms of government are owing, and that such alone will take place, for any continuance, as are adapted thereto. It is true indeed, that most changes have been effected by violence ; but then, they have been of very short continuance, unless they were suited to the manners and dispositions of the people. Whereof we have a strong proof, in the noble attempts made by *Zisca* and his followers in Bohemia, which (tho' they had almost entirely completed their work) produced no lasting effects ; the Bohemians not being at that time sufficiently improved or cultivated, to reap the benefit of the advantages proposed to them

them by those public-spirited reformers *.

A number of little Clan-ships, under so many different leaders, is perhaps the only form of government that can take place amongst savages; who have no other means of defence from injuries than association. An Aristocratical government seems naturally to follow, when many of these clans are for mutual convenience united. A despotic government, is possibly the only one that can preserve in one large body a nation just formed by conquest †, of

* Gilpin's *Life of Zisca*.

† Accordingly we find this sort of government was established by the great conquerors of the East, Nebuchadnezzar, Cyrus, Alexander, and Tamerlane; and even the govern-
ment

of various people, who are uncivilized, ignorant, and indolent; and of consequence naturally of restless and turbulent dispositions, and, for want of employment, abounding with dangerous leisure. And a government in which there is any considerable degree of freedom, can most probably be enjoyed by those *only* who have learnt to regulate their conduct by other principles than the fear of an impending scourge, and who, having been taught to employ their time usefully, in the cultivation of arts and sciences, will not be

ment of the Romans, though they admitted several of the conquered nations to the right of citizenship, and though they enjoyed so great a degree of freedom in Italy itself, and within the walls of Rome, yet was exceedingly despotic with regard to the greatest part of its tributaries, as history sufficiently testifies.

disposed

disposed to abuse those means, which liberty gives them, of causing disturbances.

And I trust I do not mistake the effect for the cause, when I conclude, that an improvement in the manners and understandings of any people, (whether it be by means of trade, and an increase of *national* wealth, or any other way) is the cause, and perhaps the *only* cause of any improvement in their constitution *. For though it be true that liberty has always made science and virtue to flourish; it is also true, and appears from many examples in his-

* An objection may perhaps here offer itself, arising from the state of the French, and other different nations in Europe; but this I have endeavoured to answer in the latter part of the essay.

tory, that liberty itself has owed its origin to the dawning of those improvements of the human mind, and to their having taken place, in some degree, before-hand : and that a degeneracy in any form of government, has generally been preceded by a degeneracy of manners.

Thus the Grecians began to make improvements in science, and to be eminent for virtue, and then established their freedom: and, in return, that freedom caused virtue and science still more to flourish.—And the Romans were at first governed by despotic kings, or at least by such as had far the greatest part of the supreme power in the state; 'till becoming more civilized, and more virtuous, they shook off the yoke,
and

and by degrees became more free :
 and then the liberty they enjoyed,
 caused science and virtue to rise to
 the highest pitch amongst them.
 But the Grecians, by the abuse of
 their liberty, became vicious ; lost
 almost every generous principle ; and
 sunk into the most abject slavery.
 And the Romans also, by their con-
 quests introduced luxury, effemi-
 nacy, and all kinds of intemperance ;
 and were no longer free.

A people must first become fit for
 an improvement in their constitu-
 tion, before it can take place amongst
 them : and must continue so, in or-
 der to maintain it. They must first
 be wise and virtuous, before they
 can be free and happy.

And

And now to apply these principles to the English Constitution in its various periods. I cannot but suspect, that different as it has appeared at different æras, it has almost always been such as, upon the whole, was fittest at the time. And on that account I look on every form under which it has existed, as venerable, and worthy to be commended: though I cannot consider its mode in past ages as intrinsically excellent; nor think that the form it *then* wore was any longer fit to be continued, when once the corresponding circumstances, to which alone that form owed its merit, ceased to exist. As to the present constitution of this kingdom, I look upon it to be widely different, in many respects, from that which existed
here

here in past ages ; and to receive authority from the latter, only as having *naturally* proceeded from that prior constitution. Its excellence arises from the same circumstances that rendered the preceeding forms of government estimable in their time ; namely, an agreement with the manners and dispositions of those who are governed, and with the circumstances of these times. This is the foundation on which it is built, and on this account, above all others, it is to be admired and adhered to. The resemblance between the present constitution and that from which it originally sprung, is not much nearer (if I may be allowed the comparison) than that between the most beautiful fly, and the abject worm from which it arose.

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I have already observed, that little distinct, independent clanships, are the only form of government natural and fit for savages in their woods, and such have been found always amongst barbarous nations, and seem to have subsisted in the first ages in almost all parts of the world *. But, when for mutual security against others, or in order to attempt inva-

* Thus we find there were thirty-one kings in Canaan ; and Mr. Bryant, in his most curious Observations and Enquiries concerning Egypt, takes notice, “ That all countries seem originally to have been divided into petty principalities ; and that every city, for the most part, had its particular king, p. 190. And to this very day, we find the savage Indians in America and Africa living in little clans under their respective leaders. And Mr. Orme, in his Account of the War in the East Indies, takes particular notice of this circumstance, amongst the Colleries, p. 212.

sions,

sions, several of these clans unite, then a form partly monarchical, and partly aristocratical, in which the King † is little more than general of the whole body, and in which the heads of the several clans still continue powerful, and almost independent, necessarily follows from the undertaking itself. And such a form of government as this, when these people have once made a settlement, and gained new territories, soon becomes, of course, in the highest degree aristocratical ; the people being under the power of a number of petty tyrants.

† With all the ensigns of royalty, and with many appearances of despotic power, a feudal king was the most limited of all princes (says Robertson in his History of Scotland, Vol. 1. p. 12).

A Constitution of this kind took place, in a greater or less degree, amongst all those barbarous nations who made settlements in the western parts of Europe *, and in this our country in particular. It subsisted among the Salii, Burgundians, and Franks, when they settled in France; among the Visigoths in Spain; among the Lombards in Italy; among the Saxons, when they made themselves masters of Britain; and among the Normans, when they conquered the Saxons.

* Thus Henault informs us, that in early times the kingdom of France was governed as a great fief; and that the great lords had the supreme power in their respective provinces, Vol. 1. p. 889 and p. 890. And in consequence of the universality of the feudal system, Sir Henry Spelman calls it the Law of Nations in the western World (of Parliaments, 57).

It was *that*, to which they were all naturally led by the circumstances in which they were placed; and was very probably the only one that could be advantageous to a barbarous people, over-running a foreign country, or that *they* could be induced to receive. I am inclined to think, that when we suppose our German ancestors brought the excellent constitution established in these kingdoms originally from their woods, and that it was beforehand planned and formed there, we do them too much honour. They most probably lived in those woods, like other barbarous people; and like the Gauls and Germans described by Cæsar and Tacitus, in little independent states or clans; and thought of the feudal constitution, only when they had

united to gain new settlements, and when necessity, and their peculiar situation, drove them to it. On which occasion, from the same circumstances, they were all, in different parts of Europe, induced to adopt nearly the same system*; tho' afterwards they might mutually communicate the improvements made in it to one another by various means.

That which necessity drives men
to,

* This opinion is confirmed by what Dalrymple says in his History of the Introduction of the Feodal System, p. 8. and indeed by the whole tenor of that excellent work. And as a further confirmation of the truth of it, I must beg leave to cite the words of Dr. Robertson, in his excellent History of Charles V. published since the first printing of this pamphlet.—Vol. I. p. 13. “The Feodal policy and laws were established, with little variation, in every
king-

to, generally answers the end proposed: and hence, this kind of constitution is found to have been well adapted to the situation of our ancestors. Had such a barbarous and uncivilized people partaken of such privileges as we enjoy, they, being unrestrained by a due sense of a fit subordination, and naturally fond of war and violence, would soon have reduced all things to anarchy and

kingdom of Europe: this amazing uniformity hath induced some authors to believe, that all these nations, notwithstanding so many apparent circumstances of distinction, were originally the same people. But it may be ascribed, with greater probability, to the similar state of society and of manners, to which they were accustomed in their native countries, and to the similar situation in which they found themselves, on taking possession of their new domains.

confusion. And on the other hand, had the king possessed as great power over his subjects as was given to the crown in after ages, he would scarce have failed to have abused it, by the most cruel oppression of all under him; whilst the nobles would have wanted, in consequence of the restraint laid upon them, the incitements necessary to induce them to undertake further conquests, or even to preserve what they had already, by their valour, acquired. Whereas, by means of such a form of government as the feudal, every thing most valuable to the people at that time was secured.

The great power and independence of the heads of the several clans, enabled them at once to curb
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the licentiousness of the commonalty their vassals, and to restrain the oppressive hand of their sovereign; whilst the former, considering themselves as closely connected with their lords, imagined they enjoyed through them, and by means of *their* independence, as great a degree of liberty as they could wish for. And at the same time, the large revenues of the great men, served to feed and maintain the rest of the people their dependents, who, for want of trade, and other means of subsistence, if they had really possessed freedom, must perhaps have starved in the enjoyment of it.

When agriculture, the arts, and commerce, began to enrich men, and enabled them to provide subsistence
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for themselves, without depending on the tables of their superior lords; when settled notions of the duties * of society became habitual; and a love of domestick pleasures, and of employments by which they could peaceably and profitably fill up their time, succeeded to useless leisure,

* Such strange ideas had people in early times of the duties of morality, and of their nature, that in France, Hegauld, not intending a certain oath should be observed, thought he should prevent his subjects from being guilty of perjury, by causing them to swear on a shrine which had no relicks in it (Henault, Vol. I. p. 142). And their notions in other respects were equally absurd, and betrayed the greatest degree of ignorance. The Question, whether the right of representation should be allowed in the direct line, was determined by combat. And in order to discover which of two liturgies was the best to be used, they were both flung into the flames, Henault, Vol. I. p. 78.

and

and a savage thirst for bloodshed, rapine, and violence ; when this state of things was introduced, the people no longer wanted the support of the great barons, nor were in danger of abusing a greater degree of liberty and independence. Now, therefore, was the time for a new form of government to appear ; and accordingly such an one began by degrees to emerge.

The lords, however, who had been accustomed to exercise an authority almost despotic, could not easily be induced to give up their pretensions. Settled habits, and deep-rooted power, are with difficulty removed. The only means of giving liberty to the people was, to give power to the king, and to enable
him

him to curb the haughtiness and oppression of those lords, who were now considered only as so many petty tyrants. A form of government, therefore, wherein the king should be very nearly absolute, was the most expedient at that time to cherish the growing arts, and to nourish and keep alive the faint and feeble flames of science, that began to burst forth: nothing but that, or liberty, could curb and restrain the oppression of the nobles, which would soon have extinguished both arts and science: and the people were not, as yet, *sufficiently* civilized to enjoy the latter, without abusing it by licentiousness and disorder.

But as time destroyed the oppressive power of the nobles, and buried
it

it in oblivion ; so time also raised up a set of men, even from amongst those of the common rank, enriched by arts and commerce, and instructed by learning and reflection, to share in the administration of government ; and to procure for their country greater advantages than could have been enjoyed before ; and such as were necessary for the further increase of trade, of agriculture, of science, and of national wealth and greatness.

Now then the exorbitant power of the crown, which had removed the former evil, and had itself degenerated into abuse, was in its turn to be restrained ; and to give place to what reason and the times required. Intolerable prerogatives
were

were at length quite given up, or ceased to be exercised. That enormous, and almost despotic power, which had been raised for the common good (when it had answered the appointed end, and could be of no further service, but instead of that, became detrimental) was laid aside: and the supreme authority was more equally divided amongst the three great bodies of the state, the king, lords, and commons *.

From this time civil wars and feuds were almost quite put an end

* Ld. Coke warrants this division (1. Inst. 109, b.) But the lords are again subdivided into two bodies, viz. spiritual and temporal, from whence Lord Clarendon drew a very singular inference. See his Life, Vol. I. p. 131, 8vo. or fol. p. 67.

to, and the different branches of the legislature, notwithstanding the prevalence of various little parties and oppositions (which perhaps will always subsist in some degree) concurred in the wisest measures for the benefit of the whole, and advanced thereby each others greatness. Arts and science flourished, and the admirable constitution we now enjoy appeared in its highest perfection.

If by vice, luxury, and indolence we degenerate, we shall be no longer fit for so excellent a form of government; but according to the natural course of things must lose it, and descend to such an one as will be necessary to govern us in a degenerate state. And if there is any possibility of improvement in the
consti-

constitution, virtue, science, and industry will lead us to it. But if we cease to cultivate these, we must fall back to slavery as well as ignorance : and no outcries for liberty, or popular clamours against ministerial infringements, can possibly save us.

Let us now, in order more fully to illustrate the principles I have advanced, take a more exact view of the state of this kingdom in different ages ; of the manners that then prevailed ; and of the different forms of government that accompanied them.

And here, as no part of our constitution seems to be derived from that which prevailed amongst the
Britons,

Britons, it may perhaps be beside the purpose to begin with them. I shall only, therefore, just mention, that they seem to have lived in a number of little petty states or clans, each of which had a king, or rather a commander in chief; and that they were almost entirely unacquainted with any science, or any art. Cæsar informs us, that a British town was nothing more than a thick ^{impassable} ~~impassable~~ wood, fortified with a ditch and a bank. And as to science, if the Druids knew any thing that deserved that name, they concealed it so carefully from the rest of the people, that it tended very little to inform the nation in general.

These people were entirely driven out of England by the Saxons, and

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those

those northern warriors were the persons who formed the embryo of our constitution. In their times, the people were ignorant, without trade to support them, fierce, uncivilized, and licentious in the highest degree: and we find that in those times the power of the Lords was great, and that of the Kings but insignificant. The great Thanes fed, supported, and ruled with an iron rod their respective vassals; whilst the king of each division of the heptarchy, was little more than the first lord, and their general in war.

In the time of Alfred, we find even the clergy were so exceedingly ignorant, that few of them could
inter-

* interpret the Latin service, which they repeated every day ; and for many ages afterwards, none but the clergy were, by our very laws, supposed to be able to read †.—No cloth was made in England ; nor was there hardly any kind of manufacture carried on. Very little land was cultivated : and commerce was almost unknown. A merchant who had made three long sea voyages, and an husbandman who had purchased five hides || of land, were by a law

* This is mentioned by Hume, p. 67, and I think also by Rapin; and Henault informs us in his *Abregé de l'histoire de France*, p. 132. Vol. I. that about the same time in Europe, in general, kings, princes, and lords, were unable to read.

† Wood's Institute, p. 400.

¶ Lord Coke informs us, that an hide, or
D 2 plough-

a law of Athelstan's * raised even to be Thanes (or Lords), in order, if possible, to encourage those pursuits. But it was to very little purpose.

The Saxons were accustomed at all their public assemblies to appear in armour †. And so great licentiousness, and want of decency and order prevailed amongst them, that one of their kings ‖, Edmund, hav-

plough-land, was not of any certain content, but as much as one plough could, in the course of husbandry, plough in one year, and it was of the yearly value of five Nobles, or 1 l. 13 s. 4 d. 1 Inst. folio 69, &c.

* Hume's History, Vol. I. p. 149.——
Selden's Titles of Honour, p. 515. and Wilkins, p. 70, 71.

† Smollet, Vol. I. p. 157.

‖ Hume's History, Vol. I. p. 75. Hoveden, p. 423.

ing

ing banished a robber, the criminal had the audacity to appear in a publick hall at dinner with him; and when the King endeavoured to seize him with his own hand, he resisted, and slew him *.

Such also was the cruelty, and

* The same barbarous manners prevailed in early times in other countries. Vertot observes of the Swedes, (p. 13 and 16) that they were rather fierce and indocile than free; and that laws were unknown amongst them, because there was not power sufficient to put them in execution. When they were displeased with their Kings (he says) they destroyed them; and (Vol. II. p. 278.) that they burnt Ortan and all his family, for laying a tax upon them; disliked Regner, a just and moderate prince (p. 262.) because he did not ravage the lands of his neighbours; and set Raguald on the throne, because he was a large and strong man, p. 292.

such were the savage manners that prevailed even amongst their princes and great men, that, not long before Alfred's time *, Kenulph, king of Mercia, taking Egbert, king of Kent, prisoner, cut off his hands, and put out both his eyes : and, after Alfred's time, Ethelred, enraged at the perfidy of Alfric, duke of Mercia, seized on his son Alfgar †, and ordered his eyes to be put out. The manners of the common people cannot, in such times, be supposed to have been much more humane or civilized ; and as to arts, they were almost unknown ||. And we may
judge

* Hume's History, Vol. I. p. 35.

† Ibid. p. 93.—W. Malmſbury, p. 62.

|| Maitland, in his *History of London*, has produced good reasons to make it appear, that
the.

judge what notions men in general had of decency, and how rough and unpolished they were, from a passage in an old English historian *, who mentioned it as an intolerable instance of luxury in the Danes, that they combed their hair once a day, and bathed once a week. The possession of property was very precarious and uncertain; men looked upon themselves as enjoying their estates only at the will of their lords, or at † most for life: and even with

the cathedral of St. *Paul's*, burnt down in 961, was only a small timber building; from whence we may easily form an idea how mean all private buildings must have been, since the best public one they had was so inconsiderable.

* Quoted by Mr. Hume, Vol. I. p. 99.

† Dalrymple, p. 44, 335. Blackstone's Commentaries, Vol. II. p. 55.

regard to their moveables *, if any one died intestate, the king or lord of course seized them; which evil was afterwards particularly guarded against by one of the articles of Magna Charta †.

Fines were the only punishment for murder, and were greater or less, according to the different rank of the person killed ||. The same

* Hume, Vol. I. p. 224. Lord Coke (9 Rep. 38.) there adds, That afterwards, this power was given to the ordinary; and Finch informs us, p. 174, in his Discourse, That the ordinary might dispose of such goods to pious uses. And that this power was greatly abused, appears from 13 *Ed. I. c. 19.* which enacts, That the ordinary shall be bound *to pay the debts of the intestate.* Such is the origin of the present right of granting administration.

† 9 H. III. c. 18.

|| Hume, Vol. I. p. 154. L.L.Æthelb. § 23.
kind

kind of punishment was also inflicted for adultery, with this odd penalty annexed by a law of Ethelbert's *, that the adulterer should buy the person injured another wife. And if we may judge from the manner in which these kind of fines operated in Ireland (where the like custom prevailed † many ages longer than in this kingdom) we may easily suppose, that murder was by no means considered as being so heinous and detestable a crime as it ought always to be esteemed. I think it was so late as the time of James I. that the lieutenant of Ireland sending a magistrate to put the laws in execution, in one of the newly conquered provinces, the chief man of

* Hume, Vol. I. p. 157. L. L. Æthelb. § 32.

† Hume, Vol. V. p. 43,

the province desired to know his
 eric or price (the fine for mur-
 dering him) expecting soon to pay
 it. I cannot forbear observing also
 in this place, that in the time of
 Edward I. and even down to that
 of Elizabeth, assassinations were in
 Scotland by no means detested with
 that abhorrence which is due to
 them; nor understood to be such
 gross violations of the laws of na-
 ture, as one would think the least
 reflection should shew them to be.
 * Bruce's assassination of Cummins,
 which was attended with several
 shocking circumstances, was regard-
 ed as an effect of manly valour and
 policy; and the family of Kirkpatric
 took from that action, for their crest,
 an hand with a bloody dagger, and

* Hume, Vol. II. p. 120.

this motto, *I will secure him*. And even Knox †, one of the first reformers, and a very pious man, was so infected with the manners and ideas of the times, that he mentions the murders of Cardinal Beaton and of the Duke of Guise with the utmost exultation.

'Tis true Alfred || compiled a body of laws; divided the country into tithings, for the more speedy execution of justice; established trials
by

† See Robertson's Hist. of Scotland, Vol. I. p. 315, who also justly observes, p. 313, that the History of Europe, during the 14th and 15th centuries, abounds with detestable instances of assassinations.

|| Hume, Vol. I. p. 66. The great pensionary De Witt, in his *Interest of Holland*, observes,

by juries ; (the strongest security of our liberties) and laid firm foundations for our present constitution. But these wise and excellent institutions operated slowly ; and the people were first to be civilized, before they could reap the benefit of them. Alfred himself also enjoyed a great degree of power : but how inconsiderable most of his predecessors, and also of his successors were, even till the time of the Confessor, is well known. Their power over the lords was but small ; and at last

serves, That till about this time, there were scarcely any merchants in all Europe, except a few in the Republics of Italy : and that the Flemings lying nearest to France, were the first that began to earn their livings by weaving. Ch. II. part I.

one of that body, Earl Goodwin, became greater than his sovereign ; was repressed with difficulty ; and, notwithstanding his punishment, left such power to his son, as enabled him, on the death of Edward the Confessor, to mount the throne.

At the Conquest, an alteration was made in the Constitution, by William's introducing a more rigid model of the feudal law ; and by his * ordering, the better to supply his occasions of men and money, that those who enjoyed any fruits of his conquest, should hold their lands, proportionably, by so many knights fees, and be allowed to enfeoff their

* Sir Robert Cotton's Antiquity and Dignity of Parliaments. Harleian Miscellany, Vol. II. p. 141.

followers: which custom gave rise to two phrases mentioned in our old records, namely, *De veteri feoffamento*, and *De novo feoffamento*; the first relating to such lands as were given and granted by Henry I. after the example of William the Conqueror; and the other to such as were granted after his death, and since the beginning of the reign of Henry II.

I cannot however assent to the opinion of those, who look upon the feudal system as being entirely introduced by the Conqueror, and unknown here before: nor with them consider the conquest as occasioning a total change in the English constitution; since nothing is more evident from history, than that the retainers and dependents of the Sax-

on

on Thanes, or Lords, stood in just the same situation with respect to them, as the vassals afterwards did to the Norman Barons, though called by another name. The Saxon Ceorles ‡ cultivated the farms of the nobility, were obliged to attend them in war, were removeable at pleasure, and attended at the lesser Wittenagemots, just as the vassals afterwards did at the Court Barons. Where then was the great difference? or how can we imagine the *spirit* of the feudal system, or even the very thing itself,

‡ I do not mean to make an accurate distinction between the Ceorles and Theoden, I only mean to speak of the Saxon commonalty in general; and the circumstances here mentioned may be collected from the account given of the Saxon times by Rapin, Milton, and other writers. It would be too tedious to cite the particular passages.

to have been unknown in England before the time of the conquest? As to the constitution being totally changed; if that was the case, how came trials by juries, county courts, and all the most material parts of the Saxon government, to remain unaltered even to this day?

But to return: The commonalty still continued in a state of great dependence on their lords; only with this difference, that the power of the nobles began to be somewhat restrained, and that the kings, by means of their foreign dominions, and of the lands that had been forfeited to the Conqueror, were enabled to maintain greater authority, and to grasp at an higher degree of power.

Yet

Yet what the ideas of the nation with regard to the power of their king were, we may easily infer from what Bracton says of the league between lord and tenant; since the great nobility thought, without doubt, that they had at least the same privileges with respect to the king, of whom they held in chief, as their tenants had with respect to them. So firm and strong (say * Bracton and Britton) was the league between lord and tenant, in consequence of fealty, by the laws of England, that,

“ *Nil facere potest tenens propter obli-*
 “ *gationem homagii, quod vertatur do-*
 “ *mino ad exbæredationem, vel etiam*
 “ *aliam atrocem injuriam. Nec dominus*
 “ *tenenti e converso; quod si fecerit,*

* Bracton, folio 80; Britton, folio 174, cited by Lord Coke, 1 Inst. folio 65, &c.

“ *dissolvitur et extinguatur homagium*
 “ *omnino, et homagii connexio et obliga-*
 “ *tio; et erit inde justum judicium, cum*
 “ *venerit contra homagium et fidelita-*
 “ *tis sacramentum, quod in eo quo de-*
 “ *linquunt puniantur; scilicet in per-*
 “ *sona domini, quod amittat dominium,*
 “ *et in persona tenentis, quod amittat*
 “ *tenementum.”* i. e. The tenant, in
 “ consequence of the bond of ho-
 “ mage, may do nothing that may
 “ tend to the disinheriting his Lord,
 “ nor that may be any other ways
 “ grievously injurious to him. Nei-
 “ ther can the lord, on the other
 “ hand, do any such thing to the
 “ tenant: if he does, the homage
 “ is entirely dissolved and extin-
 “ guished, and all connection and
 “ obligation arising from thence;
 “ and the judgment will be just,
 “ when

“ when an offence shall have been
 “ committed contrary to homage and
 “ the oath of fealty, that each party
 “ should be punished according to
 “ his offence; that is to say, with
 “ regard to the lord, that he should
 “ lose his dominion and power; and
 “ with regard to the tenant, that
 “ he should lose his tenement and
 “ estate.” And to this may be ad-
 ded what Glanvil (who wrote be-
 fore, in the time of Henry II.) *
 says † “ *Mutua debet esse domini et*
 “ *fidelitatis connexio, ita quod quan-*
 “ *tum debet domino ex homagio, tan-*
 “ *tum illi debet dominus ex dominio,*
 “ *præter solam reverentiam, i. e. The*
 “ connection (or obligation) of the

* Bracton and Britton wrote in the reigns of Henry III. and Edward I.

† Glanvil, L. 9, c. 4.

“ lord and of allegiance (or of the
 “ tenant bound to him by allegi-
 “ ance) ought to be mutual, inso-
 “ much, that whatever is due to
 “ the lord from his tenant, in con-
 “ sequence of homage, so much is
 “ due also to the tenant from the
 “ lord, in consequence of his domi-
 “ nion ; except only reverence (or
 “ honour).” And again ; between
 the sovereign and the subject, there is
 (says he) “ *Duplex et reciprocum li-*
 “ *gamen ; quia sicut subditus regi tene-*
 “ *tur ad obedientiam, ita rex subdito*
 “ *tenetur ad protectionem : merito igi-*
 “ *tur ligeantia dicitur a ligando, quia*
 “ *continet in se duplex ligamen, i. e.*
 “ between the sovereign and the
 “ subject there is a double and reci-
 “ procal obligation ; because as the
 “ subject is bound to obey the king,
 “ so

“ so the king is bound to protect
 “ the subject : ligeance therefore
 “ has deservedly its name (a ligando)
 “ from binding, inasmuch as it con-
 “ tains or comprehends a double
 “ bond.” Notwithstanding, there-
 fore, the power usurped by the Nor-
 man princes, the great authority of
 the nobles, and the low estate of
 the people, there is little reason to
 think that non-resistance, and a
 quiet submission to arbitrary power,
 was ever originally considered as a
 duty in this kingdom, even at the
 time when one of our greatest prin-
 ces reigned ; or when Magna Charta
 was confirmed, which has been look-
 ed upon by some writers as a mere
 concession from the crown. I have
 annexed the original words of the
 passages here quoted, and the reader

will be able to correct my translations, if he thinks them too lax.

And now, to go on with the consideration of the manners of the people. They were but little improved till the time of Edward IV. as appears from a great variety of instances. During the reign of Henry II. * licentious confederacies, for breaking open houses, were frequently formed by young people of respectable families.—And the Jews were so cruelly oppressed, even by public authority, that † five hundred of them retiring into the castle of York, and being there besieged, were reduced to such extre-

* Hume, Vol. I. p. 327.

† Ibid. p. 333. M. Paris, p. 111.

mity,

mity, that in despair they murdered their wives, threw the dead bodies over the walls, and setting fire to the houses, perished in the flames. A vast association of ruffians was formed, and headed by one * Long-beard, and so far were the people from having any sense of his guilt, that, when he was at last executed for his crimes, they stole his gibbet, and preserved pieces of it as so many relicks; probably because he had given them liberally of his plunder †.

And

* Hume, Vol. I. p. 355. Hoveden, p. 765.

† *With regard to these times, Mr. Hume has well observed, that such a state of society was very little advanced beyond the rude state of nature: violence universally prevailed, instead of general and equitable maxims: the pretended liberty of the times was only an incapacity of submitting to go-*

And * Comines informs us, that these also were the prevailing manners abroad ; and that many private gentlemen in Germany, were only so many robbers, who were seldom punished by the German princes, but on the contrary encouraged, and employed by them on all occasions. And the riches of these leaders (who were called Condottien) were greater than those possessed by any other men †.

vernment : and men not protected by law in their lives and properties, sought shelter by their personal servility and attachments, under some powerful chieftain, or by voluntary combinations. Vol. II. P. 443.

* Comines (translation into English, in 2 volumes) p. 493, Vol. I.

† Robertson's Hist. of Charles V. Vol. III. p. 91.

So little regard was had even for the characters then esteemed most sacred, that the two * Cardinals sent by the Pope, in Edward the Second's time, to mediate a peace between England and Scotland, were robbed on their way, by Sir Peter Middleton and Sir Walter Selby.—And Sir Gilbert Denvil and others, to the number of two hundred, pretending to be outlaws, committed notorious insults and robberies up and down the country.

In the time of Edward III. gangs of robbers were openly protected by the great barons, and became so powerful and numerous, that after exacting from the peers a solemn

* Lord Falkland's Life of Edward II. Harleian Miscellany, Vol. I. p. 71.

promise, that they would break off all connection † with them, he was obliged to march himself at the head of his troops, in order to disperse them. And it is well known ‡ that the adventurers, who had followed the Black Prince in his wars in France, afterwards formed bodies of banditti, and were headed by gentlemen of rank and fortune, both English and Gascons.

So exceeding rough and unpolished were mens manners, that they had no regard to any rules of propriety or delicacy, even in one of the most delicate affairs of life. In marriage, the convenience and ad-

† Hume, Vol. II. p. 162.—Cotton's Abridgment.

‡ Hume, Vol. II. p. 224.—Froissart, Liv. I. c. 214.

vantage of the lord in the disposal of his ward, was the principal, and indeed the only consideration; and the inclinations or dispositions of the young pair were not at all consulted. *The fair sex* (says Dalrymple *) *were reduced to a state of insignificance, which destroyed their value, and even their agreeableness in society, and rendered them almost incapable to form a choice at all;—the woman offered by the lord to his vassal, was not ashamed to wait whole days in the church, till the reluctant lover had conquered his repugnance, or compounded for it.* Instead of that agreeable intercourse and society between the two sexes, which polishes and refines men's manners wherever it takes place, the ladies

* History of Feodal Property, p. 46.

were

were treated as if they were fit only to be worshipped for their beauty, rather than conversed with ; or else to be totally neglected ; and were considered as having no other recommendation than their persons, and nothing valuable in them except their virtue. And all the gallantry and politeness of the age consisted in the cavaliers fighting stoutly on every occasion, to maintain that their respective mistresses were possessed, in the highest degree, of both these qualifications.——An odd way of proving that they had either *.

These

* The king of Prussia has given us a whimsical account of the early times in Prussia. He tells us, in the *Memoirs of the House of Brandenburg*, p. 220. That when Joachin II. was married to Sophia, daughter of the King of Poland, he lay the first night with his young
 wife

These few instances are sufficient to give us an idea of the continued licentiousness and barbarity of the times : and as to the civil improvements that were made, much cannot be expected. Arts and Manufactures were still almost unknown. When the piracies and plunder committed by the inhabitants of the cinque ports, in the time of Henry III. had driven foreign merchants from the English coasts and harbours, * Wool-

wife armed cap-a-pee. He also relates, p. 221. a story of an elector of Brandenburg, who exhibited magnificent fireworks at the rejoicings for the birth of his son, and before they began, called out of a little dormer window to the engineer, *John, set fire as soon as I have whistled.*—And he tells us, p. 231, that before the time of Frederick William, the courtiers were obliged to go in stilts to Potsdam.

* Hume, Vol. II. p. 45.

len cloaths were worn white, because the English had not the skill to dye them. And so little was agriculture improved, that no inland commerce of corn * was opened, till the time of Henry VI.

In short, men's ideas were wholly military: they attended to nothing but war; and as Mr. Hume has observed, whilst that was the *sole* object of their regard, they were unable to make any improvements of consequence, even in the manner of fighting.—So imperfect were the arms used for a long time, that engagements were either not at all decisive, or else turned to downright slaughter.—In a very severe fight in

* Hume, Vol. II. p. 384. Cotton, p. 625.
France,

France, between * nine hundred horsemen of the English, and as many of the French, about the time of Henry I. there were only three persons slain. And in the reign of Henry III. † when Lincoln was taken by storm by the Earl of Pembroke, only the Count de Perch and two persons more were killed in the attack. In the famous battle of ‡ Cressy, fought by Edward III. twelve hundred knights, fourteen hundred gentlemen, four thousand men at arms, and thirty thousand of inferior rank, were killed on the French side; and only one esquire, three knights, and a very few of inferior rank on that

* Hume, Vol. I. p. 239.

† Ibid. Vol. II. p. 6. M. Paris, 204, 205.

‡ Ibid. p. 199. Froissart, Liv. I. c. 131.

of the English. — And when the Black Prince fought Henry, king of Castile, the latter was chased off the field with the loss of * twenty thousand men, whereas there fell only forty private men and four knights, on the English side.

Whilst the manners of the people were of the stamp just described, and their improvements so few, the barons grew so numerous, that even in the time of Henry III. † there were eleven hundred and fifteen castles in England, the places of their residence, where they lived surrounded by their vassals ‡, whom they

* Hume, Vol. II p. 226.

† Ibid. p. 10.

‡ It appears from Doomsday-Book, that in the time of the Conqueror, the whole lands

they fed and supported with the produce of their estates, and who had scarce any other means of subsistence.

And I must here observe, that the very nature of the revenue of the nobility introduced this state of things, and this vast hospitality ; and occasioned its being continued so long a time afterwards. We have reason to believe, that the tenants who held of these lords, did for the most part pay their rent, either in * provisions, such

of England, exclusive of those of the church, were possessed by only seven hundred immediate vassals of the crown : under whom there were an infinite number of men of slavish condition, called Servi, Villani, Bordarii ; and a very few soccage tenants, of poor and trifling possessions. Dalrymple, p. 326.

* Blackstone's Comment. Vol. II. p. 318 and p. 57—

as corn, poultry, &c. or else by labouring on the land of their superiors: and these great men could not well get rid of the vast quantity of corn and provision, which they by these means amassed, but by maintaining great hospitality in order to consume it *. In an age when commerce was so little known, they could find but few means of bartering it away, or of disposing of it otherwise.—This was most obvious and easy; and this method therefore they pursued; thereby at once increasing their power and displaying their wealth.

* The barons, as well as the people, says Mr. Hume, Vol. II. p. 154, were obliged to kill and salt their oxen and sheep at the beginning of the winter, before they became lean on the commons and pastures.

Let

Let us now see what sort of constitution these people lived under, and how it was gradually improved. The barons, in consequence of their possessions and independence, could not but maintain their right of being considered as a part of the legislature ; and, according to the old feudal system, under which they originally claimed their estates, they were by law to be considered in that light. Yet there was such a disproportion introduced by time in the degree of their power, and in the value of their estates (* especially by the liberty that had been given them in the time of Henry II. of alienating their possessions, on account of the debts they had contracted by the Cru-

* Hurd's Dialogues, p. 210.

fades *) that it was no longer fit, or possible, for them to be all upon an equal footing. Some were very great and powerful lords, possessing whole counties and vast territories, and having even several of the rest feudataries to them, whilst others were very inconsiderable barons indeed.

—There

* We are apt to be much astonished at the migrations of the northern nations; and to wonder whence it was that they produced such numbers of people, attributing those vast swarms of the northern hives (as Sir William Temple calls them) to the greater fecundity of the inhabitants at those times than at present. But might not the eastern nations be equally astonished at the multitude of Europeans that the Crusades poured in upon them? And might not the eruptions of the northern nations have been owing partly to their having but a scanty subsistence at home, in consequence of their being unacquainted with the
culti-

—There were now therefore greater and lesser barons ; and the latter being exceedingly numerous, it was found both decent and convenient, for them to appear in the great assemblies of the people (in the time of Henry III.) * *only* by representatives, whilst the others appeared

cultivation of land, and with useful arts ; though their numbers were not greater than usual) and partly to some popular and prevailing prejudices (such as a thirst for conquest and laying waste) rather than to the countries being overstocked with inhabitants ? As the Crusades were certainly owing to a prevailing superstition, and not to any want that the Europeans had of new settlements.—We learn from Cæsar, that some of the northern nations of Germany esteemed it their highest glory to have the country, for a vast extent all round about them, laid waste. *Cæsar's Commentaries*, p. 133.

* Hume, Vol. II. p. 88.

every man in person. But of this more by and by.

The Norman princes, I before observed, were become powerful, in consequence of their foreign dominions; and another circumstance rendered them still more so: I mean the custom which first took place in the time of Henry II. of having new supplies under the denomination of scutages, tenths, and fifteenths given to them by their subjects*. And as is too frequently the case, they abused that power, and began to oppress their subjects. The barons, therefore, jealous of their ancient privileges, endeavoured to restrain their sovereign, by demanding in arms, a solemn acknowledgment of

* Hume, Vol. I. p. 329. Carte, I. 719.
their

their rights; adding also new laws in favour of liberty, which now first appeared; being sought for by the lesser barons, who were weak and feeble enough to feel the inconveniences arising from the want of it, and numerous enough to demand it. And these laws, which favoured the lesser barons as holding of their superior lords, or of the crown, could not but also be extended to their vassals, who held in like manner of them.

Here, therefore, liberty began to dawn; *because* a numerous body of men, the lesser barons, were become in some degree *capable* of enjoying it—And now also, the * intercourse
with

* So little intercourse was there formerly in Europe, even amongst people of the same
F 4 country,

with foreigners, occasioned by the Crusades (which certainly tended much to civilize these western parts of the world *) and by the foreign dominions which the Norman princes possessed, began to polish and refine men's manners, to increase knowledge, and to introduce arts and manufactures. The Croises beheld at Constantinople, in their way to Palestine, a splendor arising from the enjoyment of arts and com-

country, that in France an Abbot of Cluni excused himself from going as far as St. Maur des fossés (only a few miles) on account of the danger of travelling so far through a strange country.—Henault's Abridgement, Vol. I. p. 134.

* Robertson's History of Charles V. Vol. I. p. 27.

merce ; and a degree of civilization, which, at that time, the western parts of Europe were totally unacquainted with ; and which they could not but envy, and wish in some degree, to imitate. And the science, which the Moors had on their invasion, brought with them from Arabia into Spain, and which soon spread into France : by the communication between England and the French provinces, soon also made its way into this country, and laid a foundation for a more improved state of manners ; though the abuse of it did indeed, for a time, occasion such a torrent of school sophistry.

Henry II. had begun to introduce a second time, in imitation of Alfred, a regular kind of civil government :

He

He appointed * assizes and itinerant judges, for the better administration of justice ; and by their means endeavoured to controul and lessen the private jurisdiction of the great barons. And Edward I. much forwarded the work, by confirming again Magna Charta ; and by regulating the courts of judicature ; in order to do which the more effectually †, he compleated the division of the exchequer into four distinct courts. William the Conqueror, to keep the provincial jurisdictions of the barons in awe, had established a court in his own palace, called || Aula

* Rapin, Vol. III. p. 73. Dalrymple, p. 284. Hales's History of the Common Law, p. 140.

† Hume, Vol. II. p. 122.

‡ Dalrymple, p. 284.

Regis, which had a power of executing all the business that is at present divided amongst the four courts, of Chancery, King's-Bench, Common Pleas, and Exchequer. Complaints against inferior judges, and appeals from the lord's courts, were received in it: but, notwithstanding, for a long time almost all suits were determined in the latter. Henry II. (who established circuits, and sent itinerant judges on them*, to lessen the power of the private jurisdictions) first separated from this supreme court the King's-Bench and the Common Pleas, which then drew to them many suits, even in

* Thus in France, in order to lessen the power of the great lords, the kings invented first the *Missi Dominici*, and afterwards *Royal Cases and Appeals*. Henault, Vol. II. p. 892.
the

the first instance : and Edward I. compleated the division, ascertaining the boundaries of the Exchequer. Yet so imperfect were the ideas of justice and law in those days, that he sometimes sat in his courts himself as judge *. And there are many instances upon record, of considerable sums being paid for the obtaining equitable decisions †.

Ed. I. ‡ also established some office resembling that of justice of the

* Montesquieu has shewn how inconsistent it is with any degree of freedom in a monarchy for the king himself to sit as judge. *Spirit of Laws*, Vol. I. p. 84.

† Hume, Vol. I. p. 417. See also the passages in Madox's *History of the Exchequer*, cited by him.

‡ Hume, Vol. II. p. 122. Dalrymple, p. 286.

peace ;

peace *; and in order to lessen still more the jurisdiction and power of the nobility † endeavoured to throw the whole authority in the respective counties into the hands of the sheriffs ‡, who were vicegerents of
the

* Lord Coke, indeed, informs us, in the preface to his third Report, that the office now so called, was not established till the first year of Edward III. And indeed the first statute that mentions such an office, is 1 Ed. III. c. 16. And the first that calls such officers justices, is 34 Ed. III. c. 1. But from the words of the former of these statutes, it does by no means appear certainly, that there was no office of a *similar* nature existing before that time. And on the contrary, it is evident from many circumstances, that there had formerly been conservators of the peace chosen by the people. See Lambard, *eirenarch*, p. 15 to 20.

† Hume, Vol. II. p. 87.

‡ The office of sheriff was not, as some historians relate, introduced by William the
Con-

the earls, but were named by the king, and removeable at pleasure.

* He also appointed two constables in every hundred, for the keeping of the peace, and inspecting all matters relating to arms and armour: and moreover enacted some excellent laws, which encouraged trade †, by giving merchants an easy way of recovering their debts. He abstained from the practice of interrupting justice by mandates from the privy

Conqueror; but *that*, or one exactly similar to it, was established by the Saxons long before the Conquest, as Lord Coke observes in the preface to his third Report.

* Hume, Vol. II. p. 122.

† The statute of Acton-Burnel: and also the statute of Merchants, 13 Edw. I. stat. 3. See also 13 Edward I. stat. 1. c. 18. which rendered suits for the recovery of any kind of debts more efficacious.

council.

council. And the excellent, and well known statute, *Quia Emptores* *, passed in his reign †, made even feudal land the subject of commerce.

In consequence of these regulations, the people became more civilized, and commerce having been encouraged by the establishment ‡ of the merchants of the steelyard, in the reign of Henry III. though for a time it was carried on only by foreigners, occasioned a more frequent intercourse amongst men, and raised

* 18 Ed. I. stat. I. By this statute it was appointed, that the feoffee should hold his land of the chief lord, and not of the feoffor, i. e. *that the purchaser should be to all intents and purposes in the same situation as the seller was.*

† Dalrymple, p. 105.

‡ Hume, Vol. III. p. 334.

a spirit

a spirit of industry ; and thereby introduced other riches, besides what consisted merely in lands, and their immediate produce.

Hence the former state of things soon became improper. The common people, before of no consequence, and absolutely dependent on the great for support, had now acquired by their industry some small possessions of their own ; and were able to contribute to the expences of the state. They therefore sought independence ; and naturally demanded to be admitted to have votes in the great assemblies of the people. Borough towns were formed and incorporated, as the seats of trade, in which alone it was carried on ; and as it was unreasonable the
inhabi-

inhabitants of them should give to the government any part of what was their own undoubted property, without their consent, they were permitted in the time of Edward I. to send representatives to Parliament. And how universal this idea of the cause of admitting different members of the community into parliament was, appears from Comines †, who lays it down as a maxim, that no prince ought to raise taxes without the consent of his people.

Here then the foundation on which our Constitution is built was again enlarged; and *that* merely in consequence of a natural and almost unavoidable course of things, and be-

† Comines, Vol. I. p. 499.

cause a different form became fit and proper.

And thus it appears, that in framing the several parts of our constitution, and in giving representatives to the Borough towns, there was an high degree of wisdom ; and good reasons for what was done. But the circumstances of things are now changed ; and the same good sense that prompted our ancestors to desire the boroughs should be represented, may perhaps *now* justly make us wish, that such a representation did not exist. There is not a greater solecism in politicks than that common one, of continuing customs after the reasons for them cease.

In early times, the inhabitants of Borough towns were the only supports

ports of trade. They were a useful body of men, just emerged from slavery. And it was both beneficial, and glorious to our country, to give them some degree of weight and influence in the great assembly of the kingdom : though possibly the principal motive that induced those in power to make this alteration, might be only a desire to receive larger sums from their purses.

But whether it can *now* serve any good purpose, that a small and insignificant body of men, in a little Borough town, who have hardly any interest either in the trade or property of the kingdom, should have nearly as great a degree of weight in the legislature, as some of the largest and richest cities and coun-

ties, on whose prosperity our all depends? Whether this has not a tendency in time to sap the very foundations of our liberties, and to fling all the power into the hands of those few who can bid most for it? are questions of too high a nature, and of too great weight, for a private man to decide upon.

I must beg leave, however, in this place, to take notice of another wise and excellent institution of our ancestors, in which the changes and alterations produced by time, have almost defeated their good intentions, and have very nearly caused the very evil to return again, which they designed to guard against.—From the time of Edward I. the lesser Barons (that is, all who possessed any kind
of

of independent landed property) were appointed by law to choose representatives in parliament. But as the value of the property to be possessed by each voter was not ascertained, in a length of years, every man, who could pretend to have ever so little share in any possession of land, claimed this right; till at last the idea of the origin of it was lost, and almost all persons indiscriminately became voters.—Hence ensued great tumults, riots, and other disorders, at elections; and this caused an act to be passed in the time of Henry VI. to limit the qualifications of electors.—The preamble to this act plainly points out the mischief intended to be remedied, and is as follows † :—*Whereas the elections of knights of shires*

† 8 Hen. VI. c. 7.

to come to the parliaments of our lord the king, in many counties of the realm of England, have now of late been made by very great, outrageous, and excessive number of people dwelling within the same counties of the realm of England, of the which most part was of people of small substance, and of no value, whereof every of them pretended a voice equivalent, as to such elections to be made, with the most worthy knights and esquires dwelling within the same counties, whereby manslaughter, riots, batteries, and divisions among the gentlemen, and other people of the same counties, shall very likely rise and be, unless convenient and due remedy be provided in this behalf; our lord the king, considering the premisses, hath provided, &c. &c. By this act, the right of voting was limited to such persons as possessed forty shillings

shillings a year in land, within the county, free from all burthen. And Mr. Hume || has observed, “ that
 “ this sum was equivalent to near
 “ twenty pounds a year of our pre-
 “ sent money ; and that it were to
 “ be wished the spirit, as well as
 “ the letter of the law, had been
 “ maintained.”

If this were done, it would be better for the lower class of people, who in reality reap little benefit from the privilege they now claim, and whose morals are greatly corrupted and hurt, by the present mode of electioneering. It would render the election of those who are chosen to sit in that august Assembly, the English parliament, more honourable ;

and would, most probably, be a greater means of preserving our national liberties ; for the majority of voters would then really consist of those, who are too large and considerable a body to be easily bribed, and who would have some property to interest them in the real welfare of their country : whereas, a majority may now, in many cases be obtained, by means of those who are often biased by the most trifling considerations.

And now, having given this general idea of the alterations down to the time of Edward I. I should proceed to a more minute detail ; but first there are one or two things more, worthy to be remarked, in order to give a still more perfect idea of the state of the times.

I have

I have said the ideas of men in those days were wholly military, and how true that observation is, appears from many instances; ‡ but from none more, than from a very odd expression of Philip de Comines, in the very beginning of his memoirs, which (unless we take into consideration that circumstance, and the ancient customs of Europe), is almost unintelligible. The passage is this: || *Au saillir de mon enfance, et EN L'AGE DE POUVOIR MONTER A CHEVAL,*

‡ The prevalence of this martial disposition for a long time was so great, that even the clergy often appeared in the field in arms. So late as the time of Henry VIII. in the battle of Flodden-Field, where James IV. was slain, there were killed one archbishop, two bishops, and four abbots, on the Scots side. Lord Herbert's life of Henry VIII. p. 18.

|| Paris edit. p. 2.

je fus amené a l'Isle, vers le Duc Charles de Bourgogne. And if we translate it literally, 'tis sure a most strange and equivocal expression, very unworthy to be made use of by any good writer, and especially by a statesman and courtier.—*As soon as I was gotten above childhood, AND WAS OF A PROPER AGE TO MOUNT ON HORSEBACK, I was carried to Lisle to Charles duke of Burgundy,* is the literal translation: but if we enquire what were the customs and ruling ideas of the times, and endeavour thence to learn the meaning of the author, all will be plain and consistent. It is well known, that in consequence of the feudal law (which prevailed in almost all parts of Europe) the tenure, by which most men of any rank held their land, was personal

sonal service, which they were to perform under their Lords in war; that any one was incapable to have an estate in his possession till he was old enough to perform such service; and that, if a child's father died whilst he was yet an infant, the lord took possession of the estate till the child was of age †, because it was reasonable, he should either be served by the person to whom the estate belonged, or else have the estate in his own hands, to obtain that service from another of equal rank in life; and because he was more likely to have the child well trained up to war than any other person *. Hence the time of arriving

† Dalrymple, p. 45.

* To this purpose Fortescue c. 44. says, (as quoted by Lord Coke, 1 Inst. fol 75. b.)

Si

ing at manhood, or being of age, was naturally fixed at that, when a young man became capable to bear arms, and to serve in war; and Montesquieu ‡ informs us, that it accordingly changed when heavier armour was in process of time made use of, and when the service became more

Si hæreditas teneatur per servitium militare, tunc per leges infans ipse, et hæreditas ejus, &c. per dominum feodi illius custodientur, &c. Quis, putas, infantem talem in artibus bellicis, quas facere, ratione tenuræ suæ, ipse astringitur domino feodi sui, melius instruere poterit, aut velit, quam Dominus ille, cui ab eo servitium tale debetur, et qui majoris potentiæ et honoris estimatur, quam sunt alii amici propinqui tenentis sui? Ipse namque ut sibi ab eodem tenente melius serviatur diligentem curam adhibebit, et melius in his eum erudire expertus esse censetur quam reliqui amici juvenis.

‡ Spirit of Laws, Vol. I. p. 316.

difficult.

difficult. Before the time of Charlemagne, when light arms only were used, he says it was fixed at fifteen ; but after that time, when fighting on horseback with heavy armour was introduced, it was altered to twenty-one ; because a person could hardly be supposed strong enough before that time to serve properly. As therefore these two things, the being able to bear arms or to mount as a soldier on horseback, and the being of age, were so closely connected, it became customary to express the one by the other : and it is very probable, that even so late as the time of Philip de Comines, this form of speaking was in fashion, and that it might be thought much more becoming a soldier and courtier, to say,

say, *when I was of age to mount*; than, *When I was twenty-one years of age*; which, most probably, is what we are to understand by this expression: it then is clear, and precisely fixes the time when he went into the Duke of Burgundy's service. Any other sense of this passage, is almost unintelligible and absurd; for no one can say what is the age at which a boy will first venture to get on horseback.

But whilst men were thus wholly intent upon war, their improvements, even in the military art, were very few. I shall just give a short account of them; and, to avoid resuming the subject, shall go through with the whole at once.

The

The Pollax §, the Spear ‡, and the Sword, were the chief weapons employed in battle till after the time of Henry II. even the bow not being then introduced into general use. And for a long time the breast-plate and helmet, with a very few other pieces of armour, were the only means of defence. But by degrees the horsemen or knights, made their armour more and more heavy, till they became absolutely cased in iron, and capable of receiving many hard blows without being hurt, but not

§ Hume, Vol. I. p. 317.

‡ This also continued for a long time to be a weapon of great consequence. Robertson gives us a remarkable account of a Scottish phalanx, in which a pike, eighteen feet six inches long, was made use of. History of Scotland, Vol. I. p. 104.

very

very fit to do much execution *. Comines informs us how difficult it was to kill them, even when they were fallen from their horses. But it was by no means the bulk of an army that had the advantage of being thus armed †. When the use of the bow was well established ||, the archers, besides their bows and arrows, carried halberts, (such as the yeomen of the guard do at this day), which they pitched on the ground

* Comines, Vol. II. p. 292.

† In the statute of Winchester, 13 Edw. I. c. 6. is a curious account of the armour, which persons of different ranks were obliged to keep by them, according to the property they possessed; consisting of knives, swords, bows, arrows, breast-plates, and hauberkers.

|| Lord Herbert of Cherbury's Life of Henry VIII. Kennet's History of England, Vol. II. page 9.

till

till their arrows were shot, and then took them up again to do execution on the enemy, in cloſer fight: and Comines * informs us that they were eſteemed the chief ſtrength of an army. In this ſtate things continued till the time of Henry VIII. except that cannon had been § introduced about the time of Edward III. They however were ſo ill ſerved, that De Langey in his *Memoires* ‡ mentions it as a circumſtance ſomewhat ſingular, that, in a ſea fight between the

* Comines, Vol. I. p. 31.

§ They were uſed; but there were none caſt in England till 1535, and indeed moſt of the Cannon uſed at firſt were made of iron bars faſtened together with iron rings, ſome of which ſtill remain at Roſetto in Egypt. Pococke's *Travels*, Vol. I. p. 15.

‡ Hume, Vol. III. p. 268.

H

French

French and English, in 1545, each of the numerous fleets, consisting the one of two hundred, and the other of about one hundred ships, fired, in a two hours engagement, full three hundred shot. Yet badly served as the cannon were, they were terrible to such unskilful opponents as undertook sieges in those days. * The Liegeois, in the time of Lewis XIth. stood a siege, without gate, wall, or fortification, with one piece of cannon only. And even so late as the time of Henry IV. of France ||, Chizai was defended by one culverin. And Sully informs us, that § five or six pieces of cannon struck a terror

* Comines, Vol. I. p. 202.

|| Sully's Memoirs, Vol. I. p. 106. French edition.

§ Sully's Memoirs, Vol. I. p. 107.

into all the towns ; and that the battle of Coutras was gained by means of three pieces of cannon ‡. It is also worth while, tho' somewhat beside the purpose, to take notice of his account of the wretched † state of the militia in France in those days, as ours, in early times *, cannot be supposed to have been much better. The foot soldiers (says he) were forced into the service, made to march by blows, kept in duty by the utmost severity, and dismissed without their pay. — Calcevers, or

‡ Sully's Memoirs, Vol. I. p. 122.

† Sully's Memoirs, Vol. II. p. 385.

* When I say this, I mean to speak of the times subsequent to those in which the strict feudal discipline took place, and prior to those in which a regular militia was afterwards established.

great hand-guns, were used before the time of Henry VIII. but they were found so cumbersome, and of so little service, that in his reign it was thought fit || to revive and continue the use of the bow; and an act was accordingly passed to encourage archery §. Muskets however were soon after introduced, but even these were at first an awkward kind of weapon; for the soldiers who used them, had each a very heavy gun to carry, a rest, (or iron crutch) and a lighted match; and when the enemy was to be attacked, the rest was to be fixed in the ground, the musket to be laid upon it, and the

|| Lord Herbert of Cherbury's Life of Hen. VIII. p. 23.

§ Lord Herbert's Life of Henry VIII. p. 45.

match

match to be applied ; after which, if the enemy were quick in their motions, the musketeers fought to great disadvantage. Pistols ‡ were first used by the French in 1544, and these weapons we had in a very imperfect state from that nation. The original invention of them they claim, but the honour of improving them, so as to be fit for use, is our due.—Lord Clarendon informs us * how badly the troops in general were armed in the time of the civil wars, and gives us an odd account of a remarkable heavy armed regiment, called the † Regiment of Lobsters. As to the

‡ Lord Herbert's Life of Henry VIII. p. 249.

* History of the Rebellion, Vol. III. p. 40.

† History of the Rebellion Vol. III. p. 281.

light arms now used, they did not appear till after the restoration, but at what particular time is uncertain. Voltaire tells us, that Martinet first introduced the use of bayonets, about the time that Lewis XIV. invaded Holland ||.

I shall now proceed to examine the progressive state of our Constitution, and to make a short recapitulation of the changes in it, that attended the changes in the manners and condition of the people.—To the great barons, who originally formed the supreme council of the state, as commanding and representing all the rest of the people, (whom in truth they fed and supported) were first

|| Age of Lewis the XIVth, Vol. I. p. 128.

added

added the knights of the shires, or the representatives of the lesser barons, who having become independent of the greater barons, had *therefore* separate interests.

After that, a third body of men also, having by their industry acquired a degree of independence §, their

§ *If we consider (says Mr. Hume, Vol. II. p. 443.) the ancient state of Europe, we shall find that far the greater part of the society were every where bereaved of their personal liberty. The first incident that broke in upon this violent system of government, was the practise begun in France, of erecting communities and corporations, endowed with privileges, and a separate municipal government, which gave them protection against the tyranny of the barons.*

And hence, perhaps, we may account for the phrase generally used when a man is made

their interests were in like manner separated ; and of course it was necessary they should have distinct representatives. Distinct representatives were therefore granted them, and burgesſes (as I have before obſerved) were introduced into parliament.

But let us enter into a more particular detail. Before the time of King John, the great council of the nation was formed of the great ba-

partaker of the privileges of any of theſe communities, (as they now remain amongſt us in this country, even in theſe days) namely, *That he takes up his freedom* ; as originally, by becoming a member of ſuch community, he was freed from that dependence upon, and oppreſſion of the great lords, to which others, who were not of ſuch communities, were ſubject.

rons alone, who were the only people independent. And the first material alteration was made in the 17th ‡ year of his reign, when Magna

‡ There is mentioned (in Sir Robert Cotton's account of the Antiquity and Dignity of Parliaments, Harleian Miscellany, Vol. II. p. 114), a summons on record of the 6th year of king John, from whence he infers, that the Commons were then a part of the parliament; but he seems to draw a wrong conclusion from the translation of the word *communium*, which probably meant only the collective body of all the barons and freemen, whereas by the word *baronium*, were distinguished the chief among them. And he acknowledges, in the same page, that it is in vain to seek for an House of Commons before king John's time. His quotation is this: "Provisum est communi assensu archiepiscoporum, communium, baronium, & omnium fidelium nostrorum Angliæ quod novem milites per Angliam invenied de communi re."—— Claus. 6. in dorso.

Charta,

Charta, the bulwark of our liberties, was obtained ; and when, in order to secure the privileges confirmed by it, the ‡ barons chose twenty-five members of their body, as conservators of the publick liberties, and ordered the freeholders or lesser barons of each county, to choose twelve knights, who were to assemble in their respective counties, and to make report of such things as required redress. The next alteration was in the time of Henry III. when, in the 42d year of his reign*, twenty-four barons being chosen to *reform* the state, the king swore to maintain their ordinances ; and they ap-

‡ Hume, Vol. I. p. 390.—M. Paris, p. 181.

* Hume, Vol. II. p. 28.—Rapin, Vol. III. p. 461. mentions this as the first origin of the knights of the shires.

pointed that four knights should be chosen from each county, and that they should personally attend at the next parliament, and that ‡ three sessions of parliament; should regularly be held every year. But the last and most material alteration of those reigns was, when Edward I. required the lesser barons † regularly

† Hume, Vol. II. p. 29.—M. Paris, p. 657.

‡ Most probably it was from the introduction of the representatives of the lesser barons, who were considered not as nobility, but as the gentry of the nation, that the custom of creating peers *by writ* took rise: since, if a baron was summoned by the king's writ to attend the parliament in person, he was certainly no longer to be considered as one of those who were *represented* amongst the lesser barons by the knights of the shires. And this method of creation, Lord Coke [1 Inst. fol. 16. b.] in-

I

forms

larly to choose a number of representatives ||, whose charges they bore,
and

forms us, is the most ancient of any ; and the nature of it such, that they who are thereby made noble, do not become so, till they have actually sat in parliament. In confirmation of this idea of the origin of distinguishing the nobility from the barons in general, it may be observed, that in ancient charters and records, the word baron signifies only a freeholder or free-man, and that the *barons of London, and of the Cinque Ports*, signifies no more than *freemen of London and of the Cinque Ports*, [1 Inst. fol. 58. a.] which title the latter retain even to this day. And agreeable to this, Henault [Vol. I. p. 242.] tells us, that in Europe in general, by nobility, originally nothing more was meant than being free born.

The titles of nobility now made use of in England are of later date.—That of Duke was introduced in the time of Edward III. [1 Inst. fol. 69. b.] but the whole order was extinct in
the

|| Hume, Vol. II. p. 88.

and who were to sit amongst the peers; and also summoned the representatives

the reign of Queen Elizabeth, and was revived again by James I. in the person of the Duke of Buckingham; that of Marquis, was introduced in the time of Richard II. and that of Viscount, in the time of Henry VI. The title of Earl is the most ancient, [Hume, Vol. I. p. 143.] and the persons honoured with it were at first named by the king, but, by the laws of the Confessor, were to be chosen in the folkmote. They were in Saxon times the superintendants of Folkland, [Dalrymple's Essay, p. 12.] and were called Copes or Counts, and afterwards Eldermen and Earls. Under them the sheriffs held their jurisdiction in the several counties; [Ancient Customs of England. Harleian Miscellany, Vol. I. p. 234.] and they had originally the third part of the pleas of each county, or the third penny of the fines and mulcts in each province, allotted them for their support. Afterwards they had a certain sum of money paid to them out of the exchequer in lieu of this; and at length the dignity became

representatives of the boroughs. These last formed at first a distinct house by themselves *, but afterwards had the representatives of the lesser barons (the knights of the shires) added to their body, the latter being then removed from the House of Peers ||.

Edward

came merely titular and honorary. We find indeed some historians mentioning dukes before the conquest; as the Duke of Mercia, the Duke of East Anglia, and the Duke of the East Saxons; but this title, with regard to them, is used in a very different sense from what we now understand by it, meaning only officers or generals appointed over certain districts for life, (and sometimes only during pleasure), the possession of which places gave them a title to certain emoluments and privileges.

* Hume, Vol. II. p. 89. Burnet's History of the Reformation, Vol. III. p. 49.

|| The cause of this division at first was probably no other than that simple one of not finding

Edward I. having given this form to the Constitution, it became customary for the knights and burgesses assembled in parliament, when they granted supplies, (the raising of which was the principal cause of their being called together †), to prefer petitions to the crown for the redress of grievances; and these petitions being answered, gave birth to regular acts of parliament. ‡ Lord Chief Justice Hale informs us, that “from the beginning of the reign of Edward III. till near the end of that

finding a room large enough, at the several places where the parliament was assembled, to hold the whole body.

† Hume, Vol. II. p. 91.—Cotton's Abridg. p. 392.

‡ Hale's History of the Common Law, page 14.

“ of

“ of Henry VI. (i. e. for almost 150
 “ years) Statutes were not in the first
 “ instance drawn up in the form of
 “ acts of parliament; but the pe-
 “ tition and the answer were entered
 “ in the parliament rolls; and out
 “ of both, by the advice of the
 “ judges and others of the king’s
 “ council, the act was drawn con-
 “ formable to the petition and an-
 “ swer : and the act itself, for the
 “ most part, entered in a roll, called
 “ the statute roll, and the tenor
 “ thereof affixed to proclamation
 “ writs, directed to the several she-
 “ riffs, to proclaim it as a law in
 “ their respective counties.”—The
 Commons were long without any
 speaker. The first they had was
 in the reign of Edward III. † about

† Hume, Vol. II. p. 91.—See also Prynne’s
 preface to Cotton’s Abridgment.

his 6th year ; but they did not choose
 § one themselves till 1377, the year
 that Richard II. came to the crown.

We see therefore, how hitherto
 the Constitution improved with the
 manners and industry of the people ;
 and from this period we shall find
 both advancing to a more perfect
 state by *quicker* degrees. Such a spi-
 rit of liberty had been introduced,
 and such means of independent sup-
 port, that vassalage became almost
 intolerable ; and even in the reign
 of Richard II. * multitudes of peo-
 ple joining in an insurrection, in con-
 sequence of the farming out the poll

§ Hume, Vol. II. p. 242.—Walsingham,
 page 150.

* Hume, Vol. II. p. 246.—Froissart, Liv. 2.
 c. 77.

tax, loudly demanded the abolition of slavery †; to have fixed rents instead of service by villenage, and free commerce. But the time was not yet come for them to enjoy these blessings, nor were they *then* sufficiently civilized and industrious to be fit for them.

For many years after that time the government rested on a very uncertain foundation. It was no unusual thing for the crown to raise money, by various means, without the consent of the people: and the privy council had, in Edward the

† Demands very similar to these were afterwards made by the peasants in Suabia. [Robertson's History of Charles the Vth. Vol. II. page 257.]

III'd's time, assumed * a power of augmenting any tax of themselves, if it did not answer what was expected from it, or was found insufficient. But in the reign of Henry IV. the Commons insisted on maintaining the practice § of not granting supplies before they received an answer to their petitions ; and this gave them an opportunity to restrain, in some degree, such irregularities, and accustomed them to oppose such stretches of power, till at last they demanded to be freed from them.

In the reign of Edward IV. Caxton introduced the art of printing. Wickliff had before taught men to

* Hume, Vol. II. p. 227.—Cotton, p. 3.

§ Hume, Vol. II. p. 293.—Cotton, p. 406.

reason and think, and (his writings being spread abroad), learning and science began to appear, and the people became more civilized. Trade also was increased, and gave them still greater means of independent subsistence ; and thus all things hastened to such a state as demanded another change.

The accession of the Tudor family did, from many concurrent circumstances, favour this event : and though they probably fought only to maintain and increase their own greatness, yet no sooner did they mount the throne, than they entered into measures that greatly promoted the cause of liberty.

Henry

Henry VII. in order to conciliate the affections of his subjects, and the better to secure his title to the crown, passed † many good laws ‡ favourable to trade, and enforcing the execution of justice. Amongst which were these following: A law that fines should conclude * strangers

† Lord Bacon's Life of Hen. VII.—Kennet's History p. 596.

‡ 3 Hen. VII. c. 9.

* 4 Hen. VII. c. 24. as feodal land had been made subject to alienation by the statute *quia emptores*, in the time of Edw. I. so, by this statute, even lands entailed were also rendered alienable: but it ought to be observed, that the custom of cutting off entails appeared somewhat sooner, tho' it was not confirmed and supported by parliament till now, the use of common recoveries having been introduced about the 12th year of Edward IV. for the same purpose.

rights, by which a means of cutting off entails effectually was afforded, that at once tended to lessen the riches and power of the nobility, (still too great) and gave an opportunity to the industrious commonalty to acquire landed estates.—A law * against deeds to defraud creditors. — Several statutes for the maintenance of drapery, and for the † keeping wool within the realm, which heretofore was manufactured abroad: and by this means the working of it at home was introduced and promoted, and a foundation laid for our present trade and riches.—A law § against taking away women by force was also enacted, for the security of the property

* 3 Hen. VII. c. 4.

† 3 Hen. VII. c. 11.—4 Hen. VII. c. 11.

§ 3 Hen. VII. c. 2.

of heiresses.—And besides these, a law || ordaining that clerks convicted should be burnt in the hand; another ‡, giving an attaint on a false verdict; and another *, to enable the poor to sue without paying fees, (*in forma pauperis*) were also passed, for the better execution of justice.

Even the establishing the authority of the Star-Chamber, was a step towards a greater degree of freedom in the constitution, tho' it soon afterwards became so intolerable a grievance; for Lord Bacon † observes, “ *that the thing principally aimed at* “ *by it was force, and the two chief*

|| 4 Hen. VII. c. 13.

‡ 11 Hen. VII. c. 21.

* 11 Hen. VII. c. 12.

† Life of Hen. VII. p. 594.

“ *supports of force, combination of mul-*
 “ *titudes, and maintenance or head-*
 “ *ship of great persons.*” The vast
 and enormous power of the nobles
 was broken by these means ; and
 such a step towards liberty, was sure-
 ly some kind of recompence for the
 oppressions exercised by this prince.
 What his motives were, ought to be
 no part of the present consideration ;
 it is sufficient for the support of what
 is advanced in this essay, that his
 conduct was attended with such con-
 sequences.

Soon after this time, an acquaint-
 tance with some degree of literature,
 and the doctrines of Luther and the
 reformers, taught men to think the
 slavery of the mind much more in-
 supportable than personal servitude ;
 . and

and therefore, the great thing then aimed at, was a reformation in religion, and the shaking off the usurped power of the Pope of Rome ; in order to effect which, every other consideration was laid aside, and the power of the crown, instead of being limited, was (as Dr. Hurd has excellently observed in his dialogues) increased to an enormous degree, as a necessary means to accomplish this end.

During the whole reign of Henry VIII. this was the sole object in view, and was indeed in itself one of the greatest steps towards liberty that could be taken ; and availed much more to promote it, than the exorbitant power usurped by Henry, or any of his successors, did to retard it.

it. The establishment therefore of this change is the principal thing to be attended to, as forwarding an improvement in the constitution, both in this, and in the succeeding reigns, down to the time of James I.

Yet there were also other circumstances which greatly conduced to the same end; and I shall here just give a short account of some of the most beneficial. The Commons acquired, in the time of Henry VIII. a power of freeing any of their members who were arrested*; which they then exercised, by causing a writ on such occasions to be issued out by their speaker.—Many acts were also passed in that reign which pro-

* Hume, Vol. III. p. 249.—Hollingshed, p. 955, 956.

moted the woollen manufactures, and tho' the distant and future effect was then unseen, yet the increasing the private wealth of individuals was one of the surest means of introducing a freer form of government. And it may here be observed, that we are probably much more indebted to the persecutions in neighbouring countries, for our present greatness, than we are well aware of. So often is good, by the providence of God, produced out of evil. The persecution under the duke d'Alva drove numbers of ingenious and industrious persons out of Flanders, who enriched our country by the introduction of many arts, and the exercise of many trades: and the persecutions in France, under Charles IX. about the same time, sent into this

kingdom many other persons, suffering for conscience sake, who are generally the most industrious and best part of mankind : and afterwards other persecutions in that country were equally advantageous to us. Elizabeth's encouraging agriculture and exportation, tended much more to augment the riches and trade of her subjects, than her ill-judged patents did to diminish them : and the company of the merchants in the Steelyard (who were all foreigners, and carried on almost the whole trade of this country on foreign bottoms) having been dissolved † in the time of Edward VI. this afterwards, in her time, gave an opportunity to the

† Sir John Hayward's Life of Edward VI. or Kennet's History of England, Vol. II. p. 326.

English merchants to trade for themselves, in ships of their *own*, and was a great means of promoting commerce in this kingdom. Elizabeth's great encouragement also of learning, and of the study of the Greek and Roman authors, (which naturally roused a spirit of liberty) and her doing this, both by her own example, and by promoting learned men in the church, was of no small service.—And we may add, that her professing in publick, on every occasion, to make the good and welfare of her people the sole end of all her power, (whether she meant it or no, and notwithstanding her carrying it with so high an hand) had its use; since *thereby* the people were taught to consider their rights and privileges, as being of more importance

tance than they ever were accustomed to think them before : whilst, at the same time, the struggles for liberty, and for freedom from Spanish tyranny, in Holland and in Flanders, and the assistance afforded, with such success, to those distressed countries, by the English crown, led all Englishmen to consider arbitrary government, as an unjustifiable encroachment on the natural rights of mankind.

It may not however be amiss to take a short view of the prerogatives usurped and exercised by the several princes during the above-mentioned period ; but it should first be observed, that these, tho' great, were much less burthenfome to the people than the former power and oppression of
the

the nobles, which were effectually removed by this means.

The chief grievances were these : The raising money by way of benevolence * ; the number of penal statutes made in the reigns of Henry VII. and Henry VIII. the star-chamber, which, tho' at first it answered an excellent end, was now abused to the great oppression of the subject, being made use of to enforce the sovereign's will as a law, and to supersede all other courts ; † the excessive power of the High Commission Court, which having been first esta-

* This tax was devised by Edward IV. abolished by Richard III. and revived by Henry VII. (Lord Bacon's Life of Henry VII. in Kennet's History of England, Vol. II. p. 620.)

† Hume, Vol. IV. p. 719.

blished

blished in the time of Henry VIII. principally with a view to destroy the papal supremacy, was afterwards employed to oppress all those who dissented from the established religion ; † the power of imprisoning during pleasure § ; the power of || obliging men at pleasure to serve offices ;

† Hume, Vol. IV p. 719.

§ This prerogative was usurped by the Tudor princes, contrary to Magna Charta, and, with many other unlawful prerogatives, was submitted to, as being a means of supporting that great power, which was necessary in order to their establishing the reformation more effectually. It was an express article in Magna Charta, that no person should be imprisoned unless by legal judgment of his peers, or by the laws of the land ; and accordingly this was one of the first grievances complained of in the time of Charles I.

|| Hume, Vol. III. p. 264.

wardships,

wardships, which was a necessary consequence of the original tenure of estates, derived from the feudal system ; * the authority of the king's proclamations, and the parliament's appointing ‡ (as was done in the time of Henry VIII.) that any nine privy counsellors should form a legal court for the punishing all disobedience to them ; though it ought also to be remembered, that, in the reign of Edward VI. the act giving proclamations the force of laws was repealed ||.

Henry VIII. and Elizabeth treated the Commons with the utmost rigour

* Hume, Vol. IV. p. 723.

‡ Hume, Vol. III. p. 259.

|| Hume, Vol. III. p. 305.

and haughtiness, indicting and punishing those members who opposed their measures in the House, calling them before the privy council, and sending them to the Tower. A power was moreover assumed by the * Lord Chancellor, of issuing new writs (when parliaments were prolonged beyond one session) to supply the places of any members, whom he judged incapable of serving. § And Henry VIII. even sent circular letters to the sheriffs of the several counties, commanding such persons to be elected as his privy council should recommend. All these were certainly great oppressions.

* Hume, Vol. V. p. 11.

§ Hume, Vol. III. p. 340.—Strype's Eccles. Memorials, Vol. II. p. 394.

In the mean time the members of parliament continued to be paid by their constituents for their service ; and so little inclination did many of them discover to be active, that in the reign of Henry VIII. to enforce their attendance, an ‡ act was passed, that parliament-men should lose their wages if they went home without leave of the House. Indeed little opportunity was afforded for their exerting themselves ; for in general they were treated with an high hand, and only called upon to grant supplies, and to confirm the measures taken by the crown.

There were, however, even in those times, instances of the dawn-

‡ Lord Herbert's Life of Henry VIII. p. 23.

ing of that spirit which afterwards established our liberties. It appeared in the § parliament assembled at Black-fryars in 1523, when they refused to grant the sum demanded of them; and in some other circumstances of a like kind: and also in the queries proposed by ‡ Wentworth and other members in Queen Elizabeth's time; which occasioned so many of them to be fined and imprisoned, and which cost the ministry so much trouble to put a stop to.

At last, the Reformation being effected, learning diffused, riches in-

§ Lord Herbert's Life of Henry VIII. p. 56.

‡ Hume, Vol. IV. page 471.—D'Ewes, p. 128.

creased,

creased, and the people civilized, the time was come for the completion of the glorious work, the establishment of liberty ; when the Stuarts, unfortunately both for themselves and the nation, ascended the throne. The manners and situation of the people demanded a further change in the constitution ; but it was the misfortune of that family not to perceive what the times necessarily required. Instead of yielding to them, and thereby acquiring to themselves a much more solid and lasting glory than that founded on arbitrary power, they thought only of maintaining, and even of extending those prerogatives, which had been formerly given to the crown for the publick good, but which, after having answered the end proposed, had degenerated to abuse.

It was therefore an event but too natural that war, confusion, and a vehement struggle, should ensue. And accordingly our liberties were *then* fought for at the price of a great effusion of blood; and as too often happens, bad and designing men took advantage of the circumstances of the times, and drove things to such an extream, as was never thought of, or intended: an extream that was abhorred by those who from the first sought only the publick welfare, but which was perhaps, from the nature of things, almost unavoidable.—‡ In the midst of this confusion, however, the act of navigation was framed, which, tho' made originally only with a narrow and par-

‡ Clarendon's History of the Rebellion, Vol. VI. p. 458.

tial view, laid a foundation for the increase of our trade, one of the chief sources of our liberty.

The violent proceedings of these times, instead of answering the end proposed, were very near utterly defeating it. The exorbitant power of the crown was indeed removed, but a worse evil, oppression by a few, or, in the room of that, the most dreadful anarchy, was ready to take place.

So distasteful a specimen of liberty, lessened the general inclination towards it; the banished family was recalled, and tho' a great means of oppression was removed, by the taking away the court of wards and liveries, tenures in capite, and by

knights service and purveyance *, yet the nation was running into the contrary extream again, by restoring almost unlimited power to the crown.

But still the times would not endure it: and the abuse of this power in two reigns, caused the people again to seek that liberty, which they now considered as their natural birth-right. After many struggles, during which the Habeas Corpus Act was obtained, which has been justly called the second Magna Charta, the Revolution was brought about, liberty and property secured, and a

* 12 Charles II. c. 24.—A Statute, says Sir William Blackstone, which was a greater acquisition to the civil property of this kingdom than even Magna Charta itself. Commentaries, Vol. II. p. 77.

solid foundation laid for the prosperity of our country *.

Nor

* The many and great improvements made within this last century, in Astronomy, in Navigation, in Natural History, in Manufactures, in Building, in the several curious inventions for the use and ornament of life, and in short in almost all arts, and in many branches of science, are too well known to need a recapitulation.

I will only just add, that in an age so remarkable for its discoveries, and for a spirit of improvement, it is very surprizing that no attempts have been made, to learn the state of that vast unknown country in the Indian Ocean, called New Holland, since some parts of the coast have actually by chance been touched at, and since (from the reasonable expectation of there being a counterballance to the continent of Europe) we have good grounds to believe there must be another large continent, situated somewhere in those parts.—From the neighbourhood of this *supposed continent* to the East-India

Nor ought it to be considered as any objection to the principles I have advanced, that perhaps some of the persons concerned in bringing about this great event, were by no means men of such improved and well cultivated understandings, or of minds so well disposed as I have appre-

India Islands, there is much more reason to imagine it well inhabited, than ever there was to think America should be so. And as an intercourse with it might be very beneficial to a commercial nation, it is a most astonishing thing, that our East-India ships, which so often traverse those seas, should never make any attempts to gain information with regard to it.—The discovery of America occasioned a surprising change in the state of things in Europe in general, and has proved of the greatest benefit to this island: and perhaps the advantages arising from the discovery of this vast (tho' hitherto unknown) continent in India, might be no less,

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hended to be generally the original causes of such beneficial changes. It is sufficient that the bulk and majority of the people in general were so far improved, as to make such a change *fit* and *proper* for them †.—

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† Sir William Blackstone in his commentaries, Vol. I. p. 333, has observed, *that most of the laws for ascertaining, limiting, and restraining the king's prerogative, have been made within the compass of little more than a century past* ; that is, evidently, since knowledge, arts, and commerce, have become more general and diffused ; and amongst the many causes which have contributed to place our liberties on a solid foundation, he mentions particularly *the strong and emphatical words in which they are asserted in the Bill of Rights and the Act of Settlement ; the act for triennial (since turned into septennial) elections, and the exclusion of certain officers from the House of Commons* : and whilst these circumstances are mentioned, it ought ever to be remembered with gratitude, that the rendering the seats of the judges

An uncivilized, rude, and ignorant people, could never have suffered a change of this kind to have been lasting, or have reaped the benefit of it, let the persons who attempted to effect it have been ever so great and good, as we have seen in the case of Zisca and the Bohemians: and a people whose minds were enlarged by commerce, and cultivated by science, could not fail of reaping the benefit of such a change, or of rendering it lasting, (at least till luxury enervates them) let the persons who brought it about have been ever so far from meaning well, or ever so unworthy to be the chief agents in such a cause as that of civil

judges permanent, and their salaries independent, was lately effected by the express desire of his present majesty.

and

and religious liberty.—We may however make our boast, that most of the persons concerned in bringing about the revolution, and in securing its happy effects, were as truly great as they were useful.

And now, before I conclude, I must just take notice of an objection that may perhaps be made, arising from a consideration of the state of the French nation at this day. It may be asked how it comes to pass, if every form of government is naturally the result of the state of things, and almost always accommodated to the manners, dispositions, and improvements of the people amongst whom it prevails, how I say it comes to pass, that the French, who are to the full as far advanced in the improvements

provements of polite life, and perhaps in science, as the English, do not enjoy the same free form of government ?

But I apprehend the answer is not very difficult.—Their natural levity of disposition, perhaps, renders them rather too unfit for it.—’Twas this levity prevented their establishing such a form during their civil wars (as evidently appears from the memoirs of Cardinal de Retz) : and had they then obtained it, this same levity would probably have occasioned, first their abuse, and then their loss of it. The reason, therefore, why their form of government is so different from ours, tho’ their other improvements are now much
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the same, seems to be because their natural dispositions are so different.— It must however be confessed, that there is at present, in France, a great appearance both of a beginning of a reformation in religion, and of their attaining a greater degree of freedom ; and, probably, the only inconvenience arising from their national levity may be, its having postponed their liberty for a century or two. They have advanced by nearly the same steps as we did, and, it is most likely, they will at length compleat their work.

In the time of Clovis, they were a barbarous people, not much superior, in the improvements of life, to the Britains their contemporaries, of
whom

whom Cicero speaks with so much contempt †.

† Quod si in Scythiam, aut in *Britanniam*, sphæram aliquis tulerit hanc, quam nuper familiaris noster effecit Posidonius, cujus singulæ conversiones idem efficiunt in sole, et in luna, et in quinque stellis errantibus, quod efficitur in cœlo singulis diebus et noctibus: quis in illa *barbarie* dubitet, quin ea sphæra sit perfecta ratione? (De Natura Deorum L. 2. S. 34.)—Who at that time in Rome could imagine, that Britain would produce a Newton, and carry the science of Astronomy further than ever any nation did before?

Horace speaks of this Island with no less contempt.

—— in ultimos

Orbis Britannos.——

Carminum, L. 1, 35.

And —— Britannos hospitibus feros.

L. 3, 4.

And again ——— remotis

Obstrepat Oceanus Britannis.

L. 4, 14.

Both

Both somewhat resembled the American Indians in these our days ; and were to the Romans, and the more civilized parts of the world, what the latter are to us. So unsettled and rude was their government, that a celebrated French writer, M. de Boulainvilliers, doubts whether they really had any kings in early times or no. He was however mistaken ; and his error arose from observing the inconsiderable figure that a king made in those days. It is certain there was no regular, or well-established form of government, and that, during the first race of kings, the crown descended without any regard to the right of eldership, without any distinction between bastards and lawful children, and was divided

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when there were many ‡. Nor was any regular order of succession fixed till the time of the third race, which commenced under Hugh Capet in 987.

In the time of Pepin, and long afterwards, (under the second race) they were in much the same state as our Saxon ancestors: their nobles great, independent, and powerful; and their king little more than their general, or first lord.—A great increase of power was given to the former in the time of Charles the Bald, by their titles and dignities being made || hereditary: and, in 957,

‡ Henault, Vol. I. p. 51. The edition referred to throughout this essay is the fifth,—printed at Paris.

|| Henault, Vol. I. p. 91.

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the crown was reduced to such a state of insignificance, that ‡ Lothaire, (having little else than the city of Lyons) took no part in the wars which his vassals made one upon another. Every lord had full and supreme jurisdiction in his own § territories: and the ignorance and barbarity of those times were excessive, as I have before observed.

The first efforts that were made by the Crown to assume any degree of power, were in the time of Louis le Gros, about the year 1136; and they were similar to those made in England about the same time. He sent * *Missi Dominici* into the pro-

‡ Henault, Vol. I. p. 109.

§ Henault, Vol. I. p. 130.

* Henault, Vol. I. p. 169.

vinces to administer justice, much in the same manner as our Henry II. afterwards sent the judges of assize into our counties. And much in the same manner they endeavoured to draw all causes (by means of appeals) into their courts. He endeavoured also to give some little consequence to the commonalty. And these measures were so far pursued in France (as they were also in England under Edward I.) that it appears from an ordinance of St. Lewis, dated in † 1254, that the three estates were consulted, when any thing was debated in which the people had interest. And in 1270, Philip III. increased the power and consequence

† Henault, Vol. I. p. 228.

of the commons still more *, by permitting them to be ennobled.

Yet still the manners and ideas of men continued as barbarous in France as they did in England. When the finances were low, the † Jews were plundered there, as they were here. And Charles VI. in 1383, having a mind to make amends to a person who had his hand cut off for some offence, permitted him to have a new one of whatever materials he should choose §.

In about a century after, the Crown acquired a still higher degree

* Henault, Vol. I. p. 238.

† Henault, Vol. I. p. 388.

§ Henault, Vol. I. p. 334.

of power, and reduced that of the nobles still more. Lewis XI. was continually employed in humbling them : and in order to have a quicker and more certain information of their machinations and plots, he established posts in France for the conveyance of letters, by an edict of the year 1464 ‡. This method of conveying intelligence was till then almost entirely unknown in Europe || : and tho'

‡ Henault, Vol. I. p. 385.

|| There was no *General Post-office* in England till after the restoration. The outlines indeed of the present plan were conceived by Mr. Edmond Prideaux, who was appointed attorney-general to the Commonwealth after the death of King Charles I. but the post-office, which now subsists, was established by 12 Charles II. c. 35. It appears, however, from the preamble of that act, that there had
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tho' his intention was only to watch
over and curb the restless spirits of
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been several public post-offices, erected in various parts of the kingdom, long before, and also many private ones; and there is reason to think, from several circumstances, that this manner of conveying letters was first introduced in England, much about the same time as it was in France.—Till then it seems to have been quite unknown in Europe. We have no reason to imagine, that even the Romans ever had any such useful contrivance, tho' their great men had such frequent occasion to send dispatches to one another; and tho' Xenophon (whose writings they must have been well acquainted with) mentions some such establishment being introduced in the East by Cyrus.—His words are : Καλεμάθομεν δὲ αὐτῆ καὶ ἄλλο μηχανήματα πρὸς τὸ μέγεθος τῆς ἀρχῆς, ἐξ ἧ ταχέως ἡσθάνετο καὶ τὰ πάμπολυ ἀπέχοντα ὅπως ἔχοι. Σκεφάμεντο γὰρ πόσῃν ἂν ὁδὸν ἵπποισι κατανύτοι τῆς ἡμέρας ἐλαυνόμενοι ὥστε διαρκεῖν, ἐποιήσατο ἵππωνας τοσῶτο διαλείποντας, καὶ ἵππους ἐν αὐτοῖς καλέσεισι, καὶ τὰς ἐπιμελεμένους

the great peers, yet the invention of it perhaps contributed more to the

τέτων. Καὶ ἄνδρα ἐφ' ἐκάστων τόπων ἔταξε τον ἐπιήδειον παραδέχασθαι τὰ φερόμενα γράμματα, καὶ παραδιδόναι, καὶ παραλαμβάνειν τὰς ἀπειρηκότας ἵππους καὶ ἀνθρώπους, καὶ ἄλλους πέμπειν νεαροὺς. Εἰς δ' ὅτε ἐδὲ τὰς νύκτας φασὶν ἴσασθαι ταύτην τὴν πορείαν, ἀλλὰ τῷ ἡμερινῷ ἀγγέλω τὸν νυκτερινὸν διαδέχασθαι. (Hutchinson's Xenophon, quarto, p. 643.)——i. e. *We learn also another contrivance of his, designed on account of the greatness of his empire, by means of which he was informed how things were even at a great distance. For, considering how far an horse could travel in a day, being made to go as fast as he conveniently could, he built stables (or inns) at such distances, and placed horses in them, and people to take care of them. He appointed also, at every one of these places, a proper person to receive letters, and to deliver them, and to take care of the wearied men and horses, and to send out others fresh.—And, they say, that these stages were continued even during the night; and that a messenger who rode then, succeeded to him who had travelled in the day.*

civilizing

civilizing the people, and to the raising them from that depressed situation they were in, than almost any other whatsoever; for by means of it a mutual correspondence was opened, that tended much to spread and increase the little learning there was at that time in Europe; and an opportunity was given to the trading part of the nation to transact their business more expeditiously, and of consequence to enlarge their dealings, and to acquire greater means of independent support. But from a number of concurrent circumstances it happened, that the advantages of this kind in France were never so great as those in England, and therefore did not produce the same beneficial effects.

As

As I have before said, the chief aim of Lewis XI. during his whole reign, was to lessen the greatness of his peers; and the destroying the power of the Duke of Burgundy was even more advantageous to him, than the destruction of that of the Earl of Warwick was to Edward IV. In short he arrived at last to such a degree of tyranny, that he caused cages of wood and iron, about eight feet square, to be made, in which he confined men of the first rank. || Philip de Comines himself was shut up in one of them, for near eight months, on the accession of his successor Charles VIII. It ought not to be forgotten, however,

|| See his Memoirs, Vol. II. p. 85. or Paris edition, p. 228.

in

in how cruel and tyrannical a manner Edward IV. (in England) about the same time, first injured ‡ Burdet, and then caused him to be put to death because he complained : nor, how wantonly and barbarously * a poor publican was executed, for saying in jest, *he would make his son heir to the crown*, (which was his sign).
 † Tyranny, with regard to one part of

‡ Rapin, Vol. VI. p. 130.

* Vol. VI. p. 1.

† The sumptuary statute of 3 Edw. IV. c. 5. is also an instance of the arbitrary proceedings and oppression in those times. It is extremely curious and singular, and gives us a strange idea of the dress in those days : it forbids any person under the degree of a lord, to wear pikes upon their shoes or boots, of more than two inches in length ; and it also forbids any yeoman to wear bolsters, or stuffing of wool or cotton.

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the subjects, is very consistent with a small degree of power with regard to others, or even with regard to the nation in general; as is sufficiently evident in the history of Scotland.

But to proceed : at last, in the times of Lewis XIII. and XIV. the nobles were more effectually humbled in France, than ever the peers were in England, in those of Henry VII. and VIII. It was one of the three great points that Cardinal Richlieu § was resolved to carry : and in short,

§ Possibly it was the consideration of Cardinal Richlieu's having carried this point, that made the Czar Peter exclaim, when he saw his tomb at Paris, *Thou great man, I would have given thee one half of my dominions, to learn of thee to govern the other.*—See Voltaire's History of Russia, Vol. II. p. 136.

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the regal power, raised at first in France (as in England) for the good of the state, was, by a concurrence of circumstances, made at once too great, and was never curbed there as it was here. The industrious and commercial part of the French nation received indeed some encouragement under Lewis XI. and particularly under Lewis XIV. from the genius of the great Colbert: but the ambition of the latter kept them in poverty, and made them groan under heavy exactions; and the nation was, at that time, too far from being thoroughly civilized, and from having imbibed those generous principles which science implants in the mind, to aim at liberty. To which may be added, that their national religion rivetted their fetters, and
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will bind them fast as long as it prevails, and be an effectual means of preventing their obtaining freedom. —Voltaire ‡ observes, that the endeavours of Francis I. and of Henry IV. to civilize France, were unsuccessful ; and gives a full account of the ignorance and barbarity of the French, on the accession of Lewis the XIVth.

It is no wonder therefore (especially when we add the consideration of their national levity) that, being so unfit for freedom, they did not obtain it ; and, on that account, their present situation is no objection to the general principles I have endeavoured to advance, but on the con-

‡ Age of Lewis XIV. Vol. I. p. 5.

trary, is rather a confirmation of them; and particularly so, when we consider how similar the changes in their government, attending the state of their manners, were to ours.

Thus, on a closer inspection, the difficulty arising from the present state of the French, seems to be in a great measure, if not entirely removed: and I persuade myself, that, from the position I have ventured to advance, we may account for most of the different forms of government that now subsist in various parts of Europe.

The Spaniards, more grave than either French or English, but less civilized than either, and who are some hundred years behind-hand as
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to their learning, and the state of science amongst them, are still under a form of government very oppressive. The great power of the nobles is not yet sufficiently reduced, and trade and agriculture have not been cultivated in Spain, so as to raise the bulk of the common people to any degree of consideration in the state, or to make them fit for liberty. The struggles for it under Padilla, like those in Bohemia under Zisca, were premature, and therefore failed; and one manifest and immediate cause of their failure †, was the *jealousy* the commons had of the nobles, whose power they dreaded, and whom on that account they refused to join with; and compelled,

† Robertson's History of Charles the Vth, Vol. II. p. 175.

even against their inclinations, to strengthen the hands of the king, and to enable him at once to crush both parties. And, most probably, if Padilla and his associates, had not failed in their attempts against Charles V. they would yet either have been forced to submit to a powerful aristocracy, or have fallen into a state of utter anarchy. The abilities of one or two great men, amidst a barbarous and uncivilized people, are not sufficient to support freedom.

The Danes, to humble their nobles, about a century ago, flung all the power into the hands of their king. * They were become fit for a greater degree of liberty, and found

* See the present State of Europe, p. 71.

no other means of obtaining it, but by limiting, at all events, the oppressive power of the lords; they therefore overshot the mark, and by raising the king at once too high, defeated their own design. They did indeed humble the nobility effectually, and deprive them of power, but they made use of too rough a means, and enslaved themselves more absolutely. As the constitution and manners of a people always operate insensibly on each other, in consequence of this unhappy step (as Lord Moleſworth observes †) they are sunk and depraved, and gone backwards instead of forwards. They are less rich, less industrious, less civilized, see liberty at a still greater

† Account of Denmark, p. 31.

distance, and are indeed (I speak of the common people) still less fit for it than before. Arts, however, and trade begin insensibly to appear amongst them in spite of all these disadvantages ; and the time will probably at length come, when they will recover the shock, and when, at a fit juncture, they will gain freedom, and compleat the work that was so imperfectly begun.

The Swedes, in the time of Charles XI. were become more civilized than they had ever been before. Disgusted with their ill success in war, and at their nobles refusing to bear a proportionable part of the burthen, and having a king beloved for his equity and justice, they embraced that opportunity of freeing them-

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selves

selves from the oppressions of their nobility, flung the power into the hands of the Crown, and made their king one of the most absolute monarchs in Europe *.—In consequence of this, he effectually destroyed the greatness of the Swedish lords, and gave the commonalty an opportunity of rising from their obscurity; but at the same time he soon abused his power by the most arbitrary actions, in the exercise of which his successor, Charles XII. went far beyond him. The people, however, were still more and more civilized by their commerce with foreign nations, and became gradually fit for the enjoyment of freedom. They took therefore the first opportunity of shaking

* See the present State of Europe, p. 49.

off the yoke they could no longer bear, and, on the death of Charles XII. vindicated their liberties. They now enjoy a more free form of government, and cultivate the arts and sciences with such attention and care, that, notwithstanding the little figure they have of late made in Europe, there is reason to think they will become at length of great consideration. But as there is something very singular in the manner in which an improvement in arts and commerce, and in their constitution, went hand in hand in that country, it may not be amiss to enter into a more particular detail.

The first improvements made in the trade and commerce of Sweden, were owing to the art and industry

of some ingenious mechanicks, whom the cruelty of the Duke d'Alva drove into those parts ; the next were the consequences of Queen Christina's obtaining from Denmark, at the conclusion of the war in 1644, a freedom from customs for all ships and goods belonging to Swedish subjects, in their passage through the Sound ; and of her establishing in her own dominions a difference in customs between Swedish and foreign ships, in the proportion of 4, 5, and 6, (i. e. giving an advantage to her own subjects of paying only at the rate of 400 crowns, when a ship which was but in part Swedish, paid 500, and a foreign vessel 600). But the last, and greatest improvement, was in consequence of the English act of navigation bridling the Hollanders,

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about the time of Charles II. and opening an intercourse between England and Sweden, by which their commerce was greatly augmented as well as ours, and goods were transported by both, or either parties, according to the juncture of affairs†. The effects of these advantages must have gradually increased in a course of 50 or 60 years, and we may therefore very well attribute the Swede's becoming fit for a change in their constitution to this cause, rather than merely to an innate, hardy, and resolute spirit; which, had it been of itself sufficient to have brought about such a revolution, would have done

† See an account of Sweden, as it was in the year 1688, by Bishop Robinson, who was resident there for above twenty years, p. 264.

it much sooner ; whereas, we find that the progress of the improvements made in their constitution was gradual, similar to what happened in our own country, and evidently the consequence of the improvements of arts and commerce here mentioned : for about the year 1572, the Swedes first became acquainted with trade, and in 1644 they first began to be a commercial people ; and we find, that in consequence of this, in 1663, a spirit of liberty began so far to prevail, that they took the first step towards it, by destroying the power of the nobles ; in order to effect which, they were obliged to raise that of the crown. But in 1674, or thereabouts, their commerce was greatly increased, and in

1718, they more firmly established their liberties, by reducing again that enormous power which the necessities of former times had raised : and though they have at present overshoot the mark, and gone too far, yet there is reason to believe, their own necessities will at length bring them back to a form of government, in which the three powers of the state shall be equally balanced.

The inhabitants of Poland are still ignorant, fierce, uncivilized, and under the power of many great and independent lords. Their king is still of little consequence in the state, and has but little power. And as they are situated in such an inland country, it may be some time before
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so great a degree of trade, and § so much science is introduced, as will fit

§ In their universities their chief study is to *speak* Latin, the syntax of which very nearly agrees with that of their own language; but they very seldom, if ever, read the admirable classick authors in that tongue, and are strangers to polite learning.—Their theology is a mixture of Aristotle's logic and metaphysics, with school divinity; and their divines know little of the scriptures, or of antiquities. Physick also, and natural history, they are quite unacquainted with. [See Atlas Geographus, Vol. I. p. 230.] They have, however, had some scholars, but those are few in number; and such singular instances form no exception to the general state of a people: (It may also be observed, that learning was very nearly in this situation in England in the feudal times) — They have not any sort of manufactures, the gentry being absolutely forbidden by law to follow trade of any kind, and the commonalty wanting funds; and what trade they have is chiefly

fit them for a further change. Freedom they could not as yet enjoy properly if they had it. An arbitrary prince might be a means of civilizing them, and the being conquered would, perhaps, be the greatest blessing that could befall their country.

The Crim Tartars still live in little independent clans, and are, in no re-

chiefly carried on by foreign merchants, as it was formerly in England.—[Atlas Geographus, Vol. I. p. 214.] The lower sort of people are now in Poland, as they were in the feudal times in this country, lazy and ignorant, and are by the laws rendered incapable of possessing property; as was also the case here before the time of Edward I. And in that country also they still maintain a feudal militia, which cannot be compelled to serve above six weeks or forty days in the year. Modern Univ. Hist. Vol. XXXIV. p. 12.

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spect, advanced above the character of the most ignorant and uncivilized savages.—They reckon it unworthy of a man to till the ground, and have no fixed habitations, but with their flocks and families wander from place to place. They are dirty and filthy in their apparel, and place all their happiness in the pleasures of sense. ‡ They have no notion of justice or equity, but take any thing they want, without any scruple, wherever they find it. They are exceeding cruel, and their only punishment for murder, is to take from the murderer his cloaths, arms, and horses. This is their prevailing character; but, like all other savages, they have some

‡ Atlas Geographus, Vol. I. p. 190.

virtues, and are remarkable for keeping their promise to their enemies.

In many parts of Germany trade flourishes, and learning prevails ; and many parts of Germany are free.

The Dutch abound with arts and commerce ; and when these first began to appear amongst them, they vindicated their liberties, and established a free and regular form of government †. And if at present the lower rank of people do not enjoy in that country all the freedom and independence they formerly had, 'tis because the riches are fallen into a few hands, and because the making wealth alone the sole object of

† Temple's History of the Netherlands.

attention, has increased that want of publick spirit, and that luxury, which is an enemy to all civil improvements, and which may in time render them utterly unfit to live under such a form of government, as they on the first establishment of their republick enjoyed.

The Switzers were very soon driven by oppression, and enabled by the nature of their country, to shake off the yoke laid upon them by an arbitrary and tyrannical prince: and it is indeed true, that at the time *they* became free they were not much acquainted either with arts † or with science,

† We have a strong proof of their ignorance of the fine arts, and of all elegancies, in the memoirs of Philip de Comines, who says, that

science, and that the refinements of life have not, even to this day, gained much admittance amongst them; but yet, even so early as the beginning of the fourteenth century, they were emerged from those savage manners, and from that deplorable state of stupidity and ignorance, which prevailed amongst most of the nations in Europe at that time. Tho' they had not attained those improvements and refinements of life, the excess of which rather leads to the destruction of free constitutions than to the support of them §, yet the

that when they defeated the Duke of Burgundy, they were so ignorant of the value of things, that they cut one of the richest tents in the world in pieces, and threw away his richest jewels.—Vol. II. p. 408. or Paris edition, p. 151.

§ Stanyan's Account of Switzerland.

barrenness

barrenness and nature of their country had compelled them to be industrious, to attend to agriculture, and to leave that savage idleness which was so universal every where else : by these means individuals were enabled to support themselves in an independent manner, and led to do so by habit and custom ; and they were induced, for the sake of preserving the fruits of their industry, rather to maintain good order, than to encourage rapine and plunder ; and, consequently, were become fit for that liberty which they so early obtained.—In other respects, the progress they have made in the knowledge of arts and in learning, has been but slow, yet they have preserved the freedom of their constitution ; and, probably, like trees of
slow

flow growth, may in the end be the stronger ; and, perhaps, may flourish and be considerable, when the other states of Europe are degenerated and sunk into slavery.

In most parts of Italy, ignorance, indolence, and superstition, take place ; and there also arbitrary and oppressive power rules with an iron rod. There are indeed some few free states, but they are mostly so small and inconsiderable, as to deserve little notice in this general view, tho' a particular examination of them would perhaps add strength to the argument. One, however, which is called a free state, and has made a great figure in the world, ought to be particularly mentioned : — I mean the Republick

publick of Venice: Commerce, the Arts, and even Science, have appeared there formerly; and therefore their having attained a form of government which still has the name and appearance of freedom, is not at all inconsistent with the principles here advanced, whilst their *real* situation strongly confirms them. The Venetians (according to Bishop Burnet's account †) are sunk into an excess of debauchery and luxury, *they pursue* (says he) *forbidden pleasures so violently, that they know not how to find out such as are allowable*: and the ignorance, not only of the laity, but even of the clergy, was become, in his time, excess-

† See his Travels, p. 147.

five *. They therefore have only the *name* of liberty, and whilst they call themselves free, are in reality slaves. Mr. Ray, who has given a very particular account of their constitution, informs us †, that the citizens in general, of what quality or estate soever, have, in reality, no share or interest at all in the government. And Dr. Burnet tells us ‡, that the liberty of Venice (*such as it is*) is owing entirely to the establishment of the State Inquisitors, who by their absolute power and severity, make all ranks and orders of

* Burnet's Travels, p. 140.

† Ray's Travels, (old edition) p. 198.

‡ Burnet's Travels, p. 156.

men to tremble.—The Venetians therefore are an instance of a State degenerating by luxury, vice, and indolence, into slavery : for the evil is just the same, whether the subjection be to one despotic monarch, or to a few petty tyrants ; there is only this difference, that, of the two, the latter is often the worst. Many writers, however, and especially the author of the Present State of Europe, have extolled the maxims by which the Venetian Government is conducted.—But it should be observed, that they speak only of the efficacy of those maxims to preserve the state powerful and independent amongst its neighbours, whereas I am speaking of the internal government, as it relates to the people who live under

der it. A very despotic state may be, and often is, very powerful and reputable.

The Russians I have already mentioned in the beginning of this Essay. Before the time of the Czar Peter, Voltaire says §, they made the same figure on the Black Sea, as the Normans did on the Banks of the Ocean ; making excursions in little barks, and plundering all around them : and from what he relates of the Grand Knez Wolodimers dividing his dominions amongst his children, we find there was no regular order of succession or fixed government there, any more than in France under the

§ History of Russia, Vol. I. p. 81.

first race of kings.—The Boyars, or Knez, were anciently independent heads || of little kingdoms or governments, and were all subdued by the princes of Voldomir, to whom at last the great Czar Peter succeeded. They had vast power for a long time, and were constantly followed by an exceeding numerous train of attendants *, whom Peter afterwards obliged them to dismiss, and send into the army. The country gentlemen in Russia † (like our lesser barons) held their lands by a kind of tenure exactly resembling our knights

|| Lord Whitworth's Account of Russia, in Dodsley's Fugitive Pieces, Vol. II. p. 183.

* Perry's State of Russia, p. 203.

† Lord Whitworth's Account of Russia, p. 185.

service;

service; and the peasants were perfect slaves, subject to the arbitrary power of their lords, and transferred with goods and chattels ‡. Such was the state of Russia, even not much above a century ago: and in those times, we find this kind of government (which so much resembles what subsisted in the southern parts of Europe in the first ages) was attended with the most savage and uncultivated manners, and was probably there, as well as here, the consequence of them.—Voltaire says *,

‡ This was the case even in Lord Whitworth's time, in 1710.—An attempt has since been made to free them from this bondage, but it was by no means well received.

* History of Russia, Vol. I. p. 67.

we must not imagine their manners were so barbarous as represented by some historians; but he himself confesses ||, that they were so far from possessing any of the ingenious and ornamental arts of life, that they had not amongst them, even those that are necessary for a comfortable subsistence. And to be convinced, that their ignorance was excessive §, and their manners uncultivated, and even brutal in the highest degree, we need only just look into the accounts of Russia, given by Le Bruyn and Perry, (whose veracity we have not any reason to question). I have said, that an ar-

|| History of Russia, Vol. I. p. 83.

§ See Perry's State of Russia, from p. 200. to p. 223. and also p. 227. to 230. and Le Bruyn's Travels, Vol. III.

bitrary

bitrary prince might be a means of civilizing the Poles, and an arbitrary prince did, in some measure, actually civilize the Russians. The whole conduct of the great Czar Peter, is too well known to need the least mention in this place.—I will only just add, that as a reformation by force, where the conviction of the mind is wanting, is not likely to produce such solid and lasting effects, as that which is founded on perceiving the advantages of such beneficial improvements and changes; so, the attempts of the Czar Peter, were not attended with such salutary and lasting effects as he designed: and the Russians, instead of making still further improvements on the foundations which he laid, are rather gone backward,

backward, and have been declining to their former manners. It is impossible, however, but that they must have perceived the advantages of many arts, and particularly of commerce, and have shaken off, in some degree, their excessive ignorance; and, in consequence of this, we find that their government is not so despotic and cruel as it was formerly, and that even some spirit of liberty begins to appear amongst them.—The eyes of all are now upon them, and the æra seems to be advancing with hasty strides, in which they will appear one of the most considerable states in the whole world. Should their sovereigns have ^{so} as much wisdom and greatness of mind, as in process of time to grant them, *voluntarily,*

luntarily, the privileges and freedom, which other nations have been obliged to extort from theirs, it would probably produce a most wonderful effect, and render their princes the most mighty, and the people the happiest, and most powerful, of any under the sun.—Should they also in this present war, have success against the Turks, and subvert that empire, it is very probable, that all the trade of the East would soon be carried on through the Red Sea, the Caspian, and Muscovy, and consequently, that the riches of the whole world would soon find their passage through that country. How would this change the whole system of Europe? and what astonishing events may be just at hand?—But this perhaps

haps is carrying speculation too far. Suppose, therefore, the Russians should, on the contrary, be unsuccessful, yet they will themselves be more civilized, by their intercourse with the rest of Europe, occasioned by this war ; and that circumstance, together with the improvements in arts and science, which they are at present endeavouring to introduce, will in time produce the usual consequences.

In Turkey the passions have almost unlimited dominion ; the understanding is very little cultivated, and every thing is sacrificed to the senses.—§ They have not therefore
spirits,

§ We have a singular account in the latter end of Greaves's *Piramidographia* [Vol. II. p. 596.]

spirits, leisure, or inclination, to attend to the improvement of their constitution.

p. 596.] of the indolent and luxurious manner in which the Turks pass their time. And Le Bruyn informs us, [Vol. I. p. 449.] that they carry their indulgence of sensuality and vice to such an excess, as leads them to the most shocking state of depravity, and takes from them their relish for such enjoyments as are natural. [See also Montesquieu's Spirit of Laws, Vol. I. p. 279.] Lady M—y W—y Montague has given an elegant description of some remarkable instances of their luxury; and Dr. Shaw, Dr. Pococke, and indeed most travellers into those countries; and Le Bruyn in particular, [Vol. I. p. 460.] inform us what a deplorable state of ignorance they are in with regard to almost all sciences.—It was even a principle of their religion to neglect them. The story of *Omar*, who commanded the library at Alexandria to be burnt, is well known, and so also is it, that the art of printing is absolutely prohibited amongst them; [See Ockley's

constitution. So long as they can indulge themselves in sensual pleasures,

ley's History of the Saracens, Vol. I. p. 313. and Rycaut's History of the Ottoman empire, ch. 6.] and tho' perhaps their barbarity is not the same now as it was then, yet the fundamental principles of the Turkish religion are much the same still, and their ignorance is not much less.—Montesquieu observes, [in his Spirit of Laws, Vol. I. p. 35.] *that learning is dangerous, and emulation fatal in a despotic state.*—And he adds, p. 64. *That of all despotic Governments, the worst is that where the Prince declares himself Proprietor of the lands, and Heir to all his subjects.* It appears from the best accounts we have, that this is literally the case in the Ottoman empire, with regard to the estates of all the great men, and, in some degree, with regard to all the subjects: and Dr. Pococke mentions it as an extraordinary privilege in Candia, [Vol. II. p. 266.] that the people have such a property in their lands, that
only

fures, they aim at nothing else, and want the virtue and greatness of

only a seventh of the produce belongs to the Grand Signor, and that when they die, the lands are divided amongst their children. It would perhaps be carrying the argument rather too far to observe, that even the arts, as well as science, are in a wretched and languid state in Turkey.—Le Bruyn indeed informs us, [Vol. I. p. 140.] that the gardens of the Grand Signor's seraglio are very mean and irregular, and the buildings nothing to compare with those in Christian countries, not having the least regularity or symmetry : and the same thing is also observed in the curious account of the seraglio given at the end of Greaves's Works [Vol. II. p. 609.]; but this may be owing only to a peculiarity of taste ; and however deficient the Turks may be in the culture of the arts in general, they are, in many things, undoubtedly very magnificent.—The edition of Montesquieu's Spirit of Laws, referred to in this essay, is the small one of the English translation.

mind that gives birth to, and supports freedom. In that part of Europe, therefore, is seated absolute and despotic power, and there it will remain, till by some means or other science teaches men to know their privileges, and reason subdues the passions, and leads them to aim at nobler pursuits than mere sensual gratifications.

It is true, indeed, the form of government which the Turks live under, fosters the unhappy turn of mind described above, and tends to perpetuate the evil; and appears at present rather the cause than the effect of their manners: but 'tis also true, that, till they become more industrious, more wise and virtuous,
their

their government cannot well be changed, or receive any improvement.

A melancholy consideration it is, that, from the very nature of things, arbitrary and despotic forms of government tend to perpetuate themselves, by enervating the mind ; whereas free forms of government, if not *carefully* watched over and cherished, tend to destroy themselves, by introducing riches, luxury, vice, a want of due subordination, and in consequence, a general corruption of manners.

A free form of government also, may, by the conquering sword of a tyrant, be very *soon* subverted, and
O such

such a state of manners may *soon* be introduced, as may render it most difficult to be restored, even if the people were left to themselves : but it is a work of *ages*, and of much care and trouble, to introduce such a degree of civilization, as shall fit men properly to enjoy all the benefits of freedom, and prevent their abusing them.

It is of vast importance, therefore, to those who enjoy the benefit of freedom, to endeavour to render themselves worthy of it, and *capable* of reaping all the advantages of that inestimable blessing. We have seen, in the course of this Essay, that an ignorant, depraved, and vicious people, cannot possibly continue long

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under a free form of government, and that their abuse of it will necessarily soon introduce one more rigid and tyrannical ; and we have reason to conclude, from what we may observe with regard to the several forms of government which have prevailed in Europe, that an Aristocratical, or else an Arbitrary Government, is, in the nature of things, almost unavoidable, where the manners of a people have either never been civilized, or have been corrupted ; and where ignorance and indolence are once become almost universal.

It is, therefore, of much more consequence to us to improve our manners, to endeavour to become wiser, and to be industrious in pro-

moting every art, and every science, and in maintaining a proper and legal subordination of all ranks, than to inflame our minds with popular clamours and discontents; which may often clog the wheels of government, and make a well disposed people the tools of some particular faction, but seldom can produce any good effect.

I do not mean to say that popular opposition may not sometimes be useful, and even necessary.—It may be both.—But it is often a dangerous expedient; whereas the increasing arts and science, the improving our manners, and cultivating the religious and social virtues of life, is laying a solid foundation for national blessings, and such as will stand unshaken

shaken amidst civil storms and tempests.

We learn from ancient history, that the states of Greece and Rome were ruined by their vice, luxury, and civil commotions. Happy shall we be, if (before it is too late) we learn to profit by their sad example, and to avoid the fatal rocks and shelves on which those mighty nations split, and made shipwreck of all their power and grandeur.

Before I conclude, I cannot help observing, that the origin, not only of most nations in Europe, but also of most of the great kingdoms in the world, seem to have been much the same ; and that the steps by which

they have respectively advanced to greatness, have no small degree of resemblance *.

A savage, ignorant, and uncivilized race of men, without laws, without arts, and without mutual commerce, living in little petty independent states have first peopled each country ‡.— These have been invaded and driven out, or conquered,

* Thus Dalrymple observes, with regard to the alterations made in the feudal system, that almost every nation in Europe has run, or is running, the same course, p. 265.

‡ It is well known that, before the four great monarchies began, every city or town, with the neighbouring villages, was a distinct government by itself. We read (in scripture) of thirty-one kings in Canaan only.

by

by more warlike, and, generally, by more civilized people ; and small states have been formed, or colonies planted by the conquerors : one of these has become more powerful, and swallowed up all the rest ; then the kingdom has become respectable, regular laws have been composed and enforced, the subjects have dwelt in security, science and the arts have begun to flourish, and riches and luxury have taken place of poverty and hardship, and led men to another extream, almost as dangerous as that from which they emerged.

And it may not, perhaps, be carrying the idea of the similarity, both in the manners and forms of government of all nations in their first periods

riods too far, to observe, that even in the Grecian army, which went to the siege of Troy under the command of Agamemnon, there appear to have been strong outlines of a *feodal system*.—Agamemnon seems to have had just the same degree of power, as a feodal king had in Scotland or England, or on the Continent, in later times, and no more; and Achilles, Ajax, Ulysses, and the other Grecian princes, seem not to have commanded greater territories than many feodal lords, nor to have been either more independent of, or in more subjection to their great leader. Their *followers* also, are mentioned by Homer, much in the same light as an historian would describe those of an ancient Earl or Baron.

So

So also in Turkey †, the timariots hold their land much in the same manner as our countrymen of old did, by knights service ; and something of the same sort of establishment took place amongst the Tartars, on their invasion and conquest of China.

Whether government in this world can, or cannot, be rendered much more perfect, and more glorious both to princes and governors, and to the people, than it has ever yet been in any country, does not perhaps become us to enquire ; nor are we,

† Ricaut's History of the Ottoman Empire, chap 2.

probably, in this age, *capable* of making such an enquiry.

But as it has been observed on the one hand by the excellent author of the *Dissertations on Prophecy* †, concerning the present profligate Egyptians, that such men are evidently born not to command, but to serve and obey; that they are altogether unworthy of liberty, and that slavery is fittest for them, as they are fittest for it; so it may not be amiss to observe, on the other hand, and to impress it strongly on our minds, that the Best Forms of government can only be enjoyed by those people who are most civilized,

† Newton on Prophecy, Vol. I. p. 398.

and have acquired the most good dispositions, and the firmest habits of industry, benevolence, and serious consideration.

F I N I S,



